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CURRENT TOPICS

Legal Aid and the Bar

A DIFFERENT opinion from that expressed by a correspondent writing in the *Observer* of 27th February on the "flood" of litigation likely to result from the Legal Aid Bill (see *ante*, p. 154) has been put forward by a solicitor, Mr. L. C. B. GOWER, in a letter to the *Observer* of 13th March. His view is that the Bill will not substantially increase High Court litigation, and he brings his considerable experience of acting as a poor man's lawyer in support of his statement that the great need of people eligible for assistance will be for legal advice, and for aid in the county courts and before the magistrates. There will accordingly be no need for an increase in the number of High Court judges. The number of barristers in full-time practice is put by Mr. Gower at 500 and not at the figure of 1,000 estimated by the correspondent in the *Observer*, and they, Mr. Gower thinks, should all in future be able to earn a living wage. This will, he states, be an inestimable advantage, since it is becoming increasingly difficult to maintain our unrivalled standards of professional conduct while young lawyers are subject to the temptations which poverty entails. Mr. Gower admits that in the long run there may be an increase in numbers. This seems to be the safest forecast yet made, for undeniably the legal profession seems at present to offer attractive prospects to entrants, and some with full-time employment elsewhere are returning. What else may happen is in the region of prophecy.

Instructions from Bank Managers

SOLICITORS who receive instructions from bank managers to prepare customers' wills are advised by the Council of The Law Society in the *Law Society's Gazette* for March, 1949, to see that it is clearly recognised that the bank's customer becomes the solicitor's client. It thus becomes the responsibility of the solicitor to see that the will which he prepares properly expresses and gives effect to the intentions of his client. The solicitor must therefore hold himself free to adopt the usual practice of interviewing his client whenever he thinks it desirable, and he must advise his client as to the source from which he was introduced.

Depositions

THE time and labour occupied by the taking of depositions in the magistrates' courts provide one of the major problems of the administration of justice. To reduce these the committee appointed last March under Mr. Justice BYRNE has made a number of suggestions in a report issued on 8th March. The setting aside of special dates and the "staggering" of court lists are recommended, and it is also

proposed that the statutory caution under s. 12 (3) of the Criminal Justice Act, 1925, should be simplified and be put to the accused after the justices have announced their decision as to committal and bail. The simplification of the number and complexity of the forms which have to be prepared by the clerk on committal for trial is another proposal. Where a person is charged with an indictable offence before examining justices pursuant to s. 17 of the Indictable Offences Act, 1848, it is proposed that the prosecution may serve at any time on the accused a copy of the draft depositions of any witness whom it is proposed to call before the justices, subject to the prosecution being legally represented and the Director of Public Prosecutions or the prosecuting solicitor being responsible for their preparation. A draft deposition, it is further held, should not be used for the evidence of any person under seventeen years of age, the husband or wife of an accused person, accomplices, persons whose statements may incriminate them, and any person whom either the justices or the prosecution or the defence requires to give evidence in the usual manner. The committee also recommends the use of statutory declarations, subject to certain safeguards, one of which is that the prosecution is legally represented.

Courts-Martial and the Criminal Justice Act, 1948

THE date of operation of s. 73 of the Criminal Justice Act, 1948 (and the related portions of ss. 81 and 82), which was originally fixed by the Criminal Justice Act, 1948 (Date of Commencement) Order, 1949, as 18th April next (see *ante*, pp. 93, 113), has been advanced to the 14th March, 1949. Section 73 enables ss. 1 and 2 of the Act, relating to the abolition of penal servitude, etc., and of whipping, to be applied by Order in Council to courts-martial, and the acceleration of its coming into force has been effected by the Criminal Justice Act, 1948 (Date of Commencement) (No. 2) Order, 1949 (S.I. 1949 No. 372). Presumably an Order in Council under s. 73 is to be made before 18th April.

Sex Offenders

A JOINT committee of the British Medical Association and the Magistrates' Association has suggested alterations in the law concerning the treatment of sex offenders, in a report published on 10th March. The need for medical treatment for convicted persons and medical reports for the courts is stressed and short-term imprisonment and fines are condemned. A special institution within the prison service, it is suggested, should provide psychiatric treatment for persons obliged to stay there for long sentences. Diagnosis, it is stated, should take place at a much younger age than

obtains now and researches should be conducted with this in view. The committee further suggests that courts should be cleared while children give evidence, that the publication of children's names should be prohibited, that there should be a simpler form of oath for children, and that the proceedings at magistrates' courts should be as informal as possible when children are giving evidence. In cases at quarter sessions and assizes, it is suggested that two magistrates with experience in juvenile courts should assist the court. In cases of homosexuality, it is recommended that English law should be brought into line with Continental law in respect of private consenting adults.

Enquiries of Local Authorities

IN connection with the new forms of enquiries to local authorities recently agreed by The Law Society with associations representing clerks to local authorities (see *ante*, p. 63), the Council of The Law Society state in the March issue of the *Law Society's Gazette* that they cannot lay down any detailed rules as to the duty of a purchaser's solicitor to make of local authorities enquiries not intrinsically affecting the title to the land itself or to follow up every channel of information and convey the whole of it to his client. The Council do, however, take the view that solicitors for purchasers should request councils to give information on the lines of these forms, and should take all reasonable steps to follow up the results of such enquiries. Where answers either are not given or are unsatisfactory, it is suggested, the solicitor should inform his client and explain the risks which he is running by not pursuing the matter further. How far a solicitor may go in pressing a case must, in the Council's view, depend on the circumstances.

Gifts to Hospitals

It may not be generally realised, states the same issue of the *Law Society's Gazette*, that specific bequests to hospitals may still be made although the majority of the former voluntary hospitals and all the former local authority hospitals are now vested in the Ministry of Health. It is pointed out that s. 59 (1) of the Act authorises hospital management committees and regional hospital boards and boards of governors of teaching hospitals to become trustees of property received by way of gift for the purposes there indicated, and this would also include the acceptance of conditional gifts, provided that the condition was not contrary to law. A word to the wise is sufficient, and solicitors advising testators will be able to assure them that funds may still be left to hospitals for purposes relating to hospital services or research.

Compensation Claims under the Town and Country Planning Act

IN the Lords on 9th March a question by LORD BROUGHSHANE concerning the adequacy of the £300,000,000 fund allocated for the payment of compensation claims under the Town and Country Planning Act, 1947, elicited from the Government spokesman, Lord AMMON, the fact that although the last date for lodging claims is 30th June next, only 54,005 claims have been received to date. It may be recalled that on 15th November, 1948, the comparable figure given by Sir MALCOLM TRISTRAM EVE was 12,004, and that only a month before that date the total was as low as 6,547. The rate of lodgment of claims is clearly increasing, but it seems probable that, in the absence of a vast flood of claims as the closing date approaches, there will be many owners with potential claims excluded from participation in the Treasury scheme. Is this because they share with Lord Broughshane the opinion that the fund will provide less than 2s. in the £ for any individual claim? It is at least obvious that the fewer the claims, the better the dividend is likely to be.

Central Land Board : First Compulsory Purchase Order

THE Central Land Board announce that they have made a compulsory purchase order in respect of a plot of land at Southcroft Road, Orpington. This is the first order the Board have made under the Town and Country Planning

Act, 1947, under s. 43 (2) of which they are empowered to acquire land compulsorily for the purpose of disposing of it for development for which permission has been granted under Pt. III of the Act of 1947, on terms inclusive of any development charge payable, in cases where they are unable to acquire it by agreement on reasonable terms. A planning permission for the erection of two bungalows on the plot—which is about one-fifth of an acre—was granted by Orpington Urban District Council in May, 1947. The policy of the Central Land Board as to the exercise of these powers was discussed fully at 92 SOL. J. 593, 608.

New Companies' Winding-up Rules and Forms Order

THIS week has seen the long-expected issue of the Companies (Winding-up) Rules, 1949 (S.I. 1949 No. 330 (L.4)), made under s. 365 (1) of the Companies Act, 1948. The appendix to the rules contains the forms for use in winding-up proceedings. The rules, which revoke and replace the Companies (Winding-up) Rules, 1929, and subsequent orders amending those rules, came into operation on 14th March, 1949. On the same date there also came into operation the Companies (Forms) Order, 1949 (S.I. 1949 No. 382), which revokes and replaces the Companies (Forms) Order, 1929, and subsequent orders amending those forms, in particular the Companies (Forms) Order, 1948 (S.I. 1948 No. 1518), which prescribed a number of new forms for use under the 1948 Act.

Law of Patents

A BILL has been introduced by the Government to give effect to many of the recommendations of the second interim report of the Swan Committee with regard to the law relating to patents and registered designs. The recommendations in the first interim report of the committee were embodied in the Patents and Designs Act, 1946. In cl. 1 it is provided that an application for a patent may be made by the assignee of the inventor, and cl. 10 similarly provides that an application made by the inventor may be taken over at any stage by his assignee. At present, the application must generally be made and prosecuted by the inventor who, having parted with his interest, may be no longer concerned or readily available. Clause 6 provides that the grant of a patent may be opposed on the new grounds that the invention has been previously used or lacks inventive merit or subject-matter. Remedies are provided in cl. 15 to 23 for the abuse of patent rights or insufficient use of patented inventions. The existing remedies by grant of compulsory licences or the endorsement of the patent "licences of right" are retained, but the circumstances in which they can be resorted to are extended in the Bill to cover cases where the invention is not being worked to the fullest possible extent, or where an export market is not being supplied, or the working of another patent is hindered by the refusal of the patentee to grant a licence on reasonable terms. In cl. 32 to 35, it is proposed that an exclusive licensee may take proceedings in his own name and that a manufacturer may obtain a declaratory judgment to resolve doubts whether a particular manufacture which he proposes to undertake would infringe a specified patent. Under cl. 36 and 38 the comptroller is given jurisdiction, subject to certain limitations, to decide disputes concerning infringements of patents, and determine rights in inventions by employees. Under cl. 46 all appeals from the comptroller's decision go to the Appeal Tribunal and under cl. 47 an additional puisne judge is proposed to be appointed to deal primarily with patent cases.

Recent Decision

On 7th March (*The Times*, 8th March) the Court of Criminal Appeal (the LORD CHIEF JUSTICE and HUMPHREYS and BIRKETT, J.J.) quashed a sentence of three years' detention in a Borstal institution for falsely pretending to be a deserter from His Majesty's Forces, because this was not a case for which a Borstal sentence was appropriate, and in any case three months' imprisonment was the maximum penalty for the offence. The appellant was bound over to be of good behaviour.

DETENTION CENTRES AND ATTENDANCE CENTRES

FURTHER instalments of the Criminal Justice Act, 1948, are due to come into force on 1st and 18th April, 1949, respectively, and an article appeared in this journal on 19th February, 1949 (93 SOL. J. 112), dealing with the major part of the new provisions. It is now proposed to consider ss. 18 and 19, which deal with "detention centres" and "attendance centres," neither of which was covered by the earlier article.

Hitherto, in dealing with juvenile offenders, the alternatives open to the courts have been fining; binding over with or without probation; detention in a remand home; committal to the care of a fit person; committal to an approved school; Borstal in the case of those aged sixteen or more; prison; and whipping. The last-mentioned punishment was abolished by s. 2 of the new Act, which came into effect on 13th September, 1948.

"Fit person" orders are, generally speaking, appropriate only where the home surroundings of the offender are unsatisfactory and it is desired to change them, without otherwise interfering with his personal liberty; and committal to an approved school or to Borstal necessarily involves a certain restraint of liberty and deprivation of normal home surroundings for a more or less prolonged period.

The ultimate aim of the Act is clearly that no person under the age of twenty-one years should be sent to prison, and as a first step in that direction s. 17 prohibits courts of summary jurisdiction from imposing imprisonment on anyone under the age of seventeen, and courts of assize or quarter sessions are similarly prohibited in the case of persons under the age of fifteen.

A fine is rarely paid out of the pocket of the offender himself; binding over without probation is no punishment at all, and is clearly inappropriate if the offence is at all serious or the offender requires to be taught a lesson; probation is of great value in some cases, but there are certain types of young offenders whom it is powerless to assist; and detention in a remand home is of very limited use in practice, a remand home being more suitable for those on remand pending inquiries than as a place of detention for young offenders who have been found guilty and require treatment or punishment.

It will be seen, therefore, that there is at present no adequate method of dealing with a young offender who requires a sharp lesson, but is not a suitable subject for a fine or probation, or for prolonged detention in an approved school or at Borstal. It is for this type of offender that ss. 18 and 19 of the Act, which will come into operation on 18th April next, are intended. These sections provide that "detention centres" and "attendance centres" are to be established as alternatives to the present methods of treatment of offenders under twenty-one years of age. It should be emphasised that none of the existing methods is curtailed, except that once detention centres are available offenders of fourteen-sixteen years of age may no longer be committed to custody in a remand home under s. 54 of the Children and Young Persons Act, 1933, either as a punishment after a finding of guilt or in default of payment of a fine, damages or costs. Where existing methods of treatment of juvenile offenders are amended by the Act, this is done by other sections which have already been brought into force, e.g., s. 20, which alters the circumstances in which young offenders may be sent to Borstal.

It is obvious that it will be some considerable time before detention centres and attendance centres can be provided throughout the country, as premises will have to be built or acquired for the purpose. Accordingly, the new provisions contained in ss. 18 and 19 can only be used by a court after it has been notified by the Secretary of State that a detention centre or attendance centre, as the case may be, is available for reception from that court of persons of the class or description of the offender concerned. Exactly how such offenders are to be classified or described is not disclosed in

the Act, and this will presumably be left to the discretion of the Secretary of State, but it is obvious that any effective classification must include considerations of sex and age, and probably also the nature of the offence and character of the offender. It is, however, pointless to attempt to anticipate in this respect.

Once detention and attendance centres are available, it will become necessary to consider the qualifications necessary to establish eligibility for such treatment. First of all, the offence must be one for which the court has power to "impose imprisonment," and in this respect the restrictions laid down by s. 17 of the Act, which came into force on 27th December, 1948, and which are referred to above, may be ignored. The expression "impose imprisonment" is defined in s. 80 as meaning "pass a sentence of imprisonment or commit to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone." Thus these centres will be available not only as what may be described as primary treatment for an offence, but also as a sanction for non-payment of fines, damages and costs. Further, a probationer who is in breach of the terms of his probation order may be required to attend at an attendance centre (s. 6 (3)), though he may not be sent to a detention centre; this provision is an alternative to fining him for the breach of probation and does not put an end to the probation order.

Secondly, the upper age limit in both cases is twenty years; the lower limit, in the case of detention centres, is fourteen years, and in the case of attendance centres is twelve years.

As it is clearly not desirable that these centres should be used for persons who have already been subjected to vigorous measures without good result, it is provided that no person shall be sent to either a detention or an attendance centre if he has been previously sentenced to imprisonment or Borstal; or to a detention centre if he has been previously ordered to be detained at a detention centre since attaining the age of seventeen; or to an attendance centre if he has previously been sentenced to detention in a detention centre, or has been ordered to be sent to an approved school.

As regards detention centres, there is the further condition imposed by s. 18 (2) that the court must be of opinion that no other method of dealing with the offender, except imprisonment, is appropriate.

By s. 52 of the Act the Secretary of State has power to make rules for the regulation of detention and attendance centres, and the classification, treatment, employment, discipline and control of persons detained therein.

Detention at a detention centre will normally be for a fixed period of three months; but where the maximum term of imprisonment which the court could impose for the offence is less than three months, then the detention will be for that maximum term. Further, in "special circumstances" the court may order detention for six months or for any less period not exceeding the maximum term of imprisonment, whichever is the shorter term. Finally, if the offender is of compulsory school age, these fixed periods may be reduced to not less than one month if the court considers them to be excessive.

The order to go to an attendance centre will specify the number of hours, not exceeding twelve in the aggregate, which the attendances shall cover; the time of the first attendance will be fixed by the court, who for that purpose will presumably have to co-operate with the centre; and subsequent visits are to be at such times as shall be fixed by the officer in charge of the centre. The Act provides that times of attendances are to be arranged so far as practicable to avoid interference with the offender's school or working hours, and no offender may be required to attend more than once on any one day, or for more than three hours on any one occasion.

On failure to comply with an order to attend at an attendance centre, or on breach of any of the rules made

under s. 52 while attending at an attendance centre, the offender may be brought back before the court by summons or warrant; the court may then revoke the order for his attendance at the centre, and may deal with him in any manner in which they could have dealt with him in the first instance.

The success or otherwise of this new experiment in the treatment of young offenders will obviously depend not merely on the discretion with which the courts exercise their new powers, but still more upon the methods employed at the

centres provided. Presumably the Secretary of State will, in due course, work out the details, and until he does so any attempt to forecast what the centres will be like can be no more than guesswork. It is to be hoped, however, that discipline will rank high in the requirements of detention centres; and that the necessity of spending part of his leisure hours at an attendance centre may impress upon the young offender that if he is to be allowed to spend his leisure as he likes, he must not employ it in committing criminal offences.

E. G. B. T.

THE LEGAL AID BILL IN COMMITTEE

(Continued)

THE second week's consideration of the Bill has not resulted in any changes of note, but has elicited a considerable amount of illuminating information on the Government's intentions and has produced an interesting discussion on a number of points of principle.

The first amendment considered was one moved by Mr. Manningham-Buller to cl. 2 (4). This provides that, for the purpose of inquiry as to the means of an assisted litigant to determine what costs he shall be ordered to pay, his house, furniture and tools of trade shall be left out of account and, except to the extent that regulations may prescribe, shall be protected from seizure in execution to enforce the order. The amendment proposed to add a proviso that where the court considered it reasonable this subsection should not have effect. Mr. Manningham-Buller urged that the court should be given a discretion in exceptional circumstances and he instanced the case, rather more topical than probable, of an undischarged bankrupt with a valuable flat and furniture in Park Lane. The Solicitor-General pointed out that it was extremely unlikely that such a person would get past the certifying committee and the National Assistance Board and that it was felt undesirable to introduce a further element of uncertainty, particularly as power was reserved to provide in the regulations for seizure in execution in exceptional cases. His argument that it was most important that the normal litigant should know where he stood before he embarked on litigation was strongly supported from the Labour benches. Eventually the Solicitor-General gave a somewhat half-hearted assurance that the matter would be reconsidered, and the amendment was withdrawn.

On the motion that cl. 2 should stand as part of the Bill, Mr. Janner raised the question whether the assessment of means on a sliding scale would not prove unduly cumbersome and dilatory and whether it would not be better to fix an arbitrary limit of means below which aid would be free. This point had, of course, been given the most elaborate consideration by the Rushcliffe Committee and their decision to reject it in favour of a sliding scale of contribution has met with almost universal approval. Moreover, as the Solicitor-General emphasised, the regulations would provide for the issue of an interim certificate in a case of special urgency. Mr. Dumbleton asked the Government to consider whether it would not be better to leave the upper income limit to be prescribed from time to time by regulation rather than to fix it in the Bill. The reply was that it was felt necessary to prescribe an upper limit but that a certain degree of flexibility was achieved by the provision that regulations could extend the list and amounts of the "disregards" which had to be taken into consideration in assessing disposable income and capital. In so far as these disregards provide for the deduction of the actual liabilities of the applicant (e.g., rent and mortgage interest) they will, of course, automatically adjust themselves to any increases in the cost of living and interest rates, but as regards the arbitrary sums deducted as personal allowances and in respect of dependants it is presumably the intention that the amount of these should be increased if there is a substantial rise in the cost of living as a result of further inflation. If this is so, it is difficult to see why the principle

of flexibility should not be openly recognised by leaving the upper limit to be fixed from time to time by regulation.

A number of amendments to cl. 3, which deals with the amount of the applicant's contributions to the Legal Aid Fund, were ruled out of order as conflicting with the financial resolution, and the only amendment which remained was one moved by Mr. Quintin Hogg which sought to avoid the possibility of the fund making a profit. As a result of the clause as drafted, if the party and party costs recovered from the other side are more than the reduced solicitor and client costs payable to the assisted party's solicitor the fund will make a profit. Mr. Hogg's amendment was designed to obviate this by restricting the amount of costs recoverable from the other side, but it is submitted that a fairer solution is that already advocated in these columns, namely, that in such a case the solicitor to the assisted party should be paid the party and party costs. Why should the losing party gain because his adversary is assisted? The fund is not making a profit at his expense but at the expense of the legal profession. So far as the solicitor is concerned this cause for complaint will only arise where party and party costs exceed the reduced solicitor and client costs, but the position of counsel seems to be anomalous in all cases. As we understand it, the other side will have paid to the fund the full brief fee as allowed on taxation but the barrister will only receive 85 per cent. of this (in High Court cases), and the fund will always make a profit at his expense. The whole question seems to require reconsideration and, as the Solicitor-General promised that it should have it, it is hoped that the above points will be borne in mind.

Discussion of cl. 4 was mainly directed to ascertaining from the Government details of what they had in mind as regards the regulations providing for assessment of means. Four main points were raised:—

(1) What will be the position as regards husband and wife? The Solicitor-General indicated that their income and capital would normally be aggregated but the free allowances would be increased to £208 a year income and £150 capital. Aggregation would not apply where the matrimonial home had broken up.

(2) The terms of cl. 4 envisage that the resources of persons other than the spouse might be taken into account. Mr. Manningham-Buller pointed out that the Rushcliffe Committee had recommended that the means of no other member of the family should be aggregated and asked why this recommendation was apparently being departed from. The reply was that it was desired to legislate for such cases as those in which an infant litigant had a well-to-do father. A number of members suggested that words ought to be included in the Bill, and not merely in the regulations, to make it clear that this only applied to outside assistance which the applicant had reasonable expectation of receiving, and the Government promised to consider this.

(3) Clause 4 contemplates that regulations may provide for deductions in respect of matters for which the applicant "must or reasonably may provide." It was suggested that the words "or reasonably may" should be deleted, but this was not pressed when the Solicitor-General indicated that they had in mind such matters as the maintenance

of invalid relatives, hire-purchase charges, school fees and travelling expenses.

(4) Clause 4 (3) originally provided for treating as part of the resources of the applicant help which he might reasonably expect to receive from any body of which he was a member. This was deleted to pave the way for a new clause, to be proposed by the Government, to provide for subrogating the Legal Aid Fund to the rights of the applicant. Detailed discussion on this was deferred until the new clause is moved.

Mr. Piratin then moved an amendment to delete the provisions for the assessment of means by the National Assistance Board and to substitute merely a statutory declaration by the applicant. This received no support and was rejected without a division. However much one may dislike means tests in principle there is no doubt that a scheme based on a sliding scale of contributions is only feasible if a means test is held, and it is clear that the Assistance Board is the right organisation to carry it out.

In the discussion on cl. 5, the Attorney-General referred again to the new clause in his name, designed to close the gap between mere oral advice and aid in litigation (see p. 155, *ante*). He indicated that the Government had accepted the principle that this gap must be closed but that the new clause did not necessarily represent the final form of what they had in mind. This declaration will give satisfaction to all who have been urging that the existence of this gap represented the major flaw in the proposed scheme.

The last matter fully discussed during the week was in many ways the most interesting. It arose out of an amendment moved by Sir David Maxwell-Fyfe designed to elicit information from the Government as to what they had in mind regarding the disciplinary body which would have power to exclude solicitors and barristers from the panels. The Attorney-General rightly described this as a question of great importance for both branches of the profession and agreed that barristers and solicitors ought not to be lightly excluded from the panels and thus deprived of an important means of livelihood. On the other hand, that livelihood would be partly derived from public funds and it was, therefore, essential that proper and uniform standards of conduct should be maintained, and administered not exclusively by the members of the professions concerned. It was, therefore, proposed to set up two special disciplinary bodies, one for barristers and one for solicitors, consisting of three members of the branch concerned with a representative of the Lord Chancellor (a hint was dropped that this representative might be an ex-judge) and the Chairman of the Bar Council or the President of The Law Society respectively. From these bodies there would be an appeal to an appellate tribunal, the composition of which was still under discussion.

The need for any special disciplinary procedure was seriously questioned from all sides of the House. Mr. Paget suggested that if the lawyer concerned was unfit to be on the panels he should be totally excluded from practice and dealt with under the normal procedure by the Solicitors' Disciplinary Committee or the benchers of the Inn. Mr. Price-White and Mr. Maude drew attention to the serious risk of overlapping with the possibility of the special tribunal coming to one conclusion and the normal disciplinary body coming to another. This view was supported not only by lawyers but by two lay members. On the other hand, the Attorney-General pointed out that the functions of the two bodies were basically different. The normal bodies were concerned with the lawyer's fitness to practise at all and were interested only in definite impropriety and not merely in carelessness or inefficiency; the new bodies would have to consider the latter also since public money could not be poured into the pockets of the inefficient. This, however, was attacked from two sides. Mr. Paget quite rightly pointed out that the Solicitors' Disciplinary Committee did consider breaches of diligence, while Brig. Medlicott feared that if a solicitor were to be excluded merely on the ground

of dilatoriness an unjustified stigma might attach to his name. Eventually the amendment was withdrawn on the understanding that the matter would be reconsidered before the Report stage.

Reading between the lines of the debate, it seems that what is principally concerning the Government is the obsolete convention whereby a barrister is never liable for negligence. Surely it is time that this rule was scrapped, and this not only in cases coming under the Legal Aid Scheme? The Inns of Court and Council of Legal Education go to some pains to determine fitness and efficiency before a man is called to the Bar, but once called he cannot be excluded except for something approaching fraud. He may be completely casual and inefficient, but the client whom he has let down has no remedy, and he is free to treat others in the same way. The only sanction is that once he becomes too notorious no solicitor will give him a brief. The Attorney-General instanced a county court practitioner who cross-examined his own client in the mistaken belief that he was appearing for the other side. "That," he said, "was the end of that case and it was also the end of that client. But it was not the end of that lawyer. He continued to practise in the courts and get . . . cases from people who did not know of the experience of the other client." The Attorney-General, quite rightly, considered that such a lawyer should not remain on the panels, but apparently he was quite reconciled to his continuing in practice. Can there be any justification for this point of view? It is submitted that the public interest is just as much concerned in the one case as in the other and that that portion of the public which pays for its own litigation is as entitled to protection in that capacity as in its capacity as taxpayers. In the case of solicitors the position is less illogical but not wholly satisfactory. A solicitor is of course liable to his client for negligence, and negligence may be a ground for disciplinary action, but, as the Attorney-General pointed out, mere incapacity is not such a ground. We hesitate to suggest that it should be, but surely the case for it is even stronger than in the case of a barrister? In the case of the latter there is some protection for the public because the solicitor is interposed between him and the lay client, but the public has no such protection against the inefficient solicitor. This fact is recognised by the infinitely severer tests which a solicitor has to undergo before admission, but once admitted he too is free from any further check.

Whether we like it or not, it would seem that the Legal Aid Scheme is going to alter this. If, as seems certain, the Government insist that barristers and solicitors can be struck off the panels for mere absence of diligence or incapacity (a principle apparently accepted by the Bar Council and The Law Society) then, *de facto* if not *de jure*, negligence and incapacity will become equivalent to professional misconduct, for once a lawyer has been struck off the panels the fact is bound to be known and for all practical purposes his career will be finished. Once this principle is recognised it would not seem to matter very much whether discipline is handled by the existing bodies or the new tribunals. In theory the latter are no doubt superior, because the public interest will be represented by the Lord Chancellor's representative, and, in the case of the Bar, because there will be one tribunal in place of the separate benchers of each Inn. But in practice it does not seem to make two pins of difference either to the public or the profession whether discipline is administered by the old bodies or the new. On the other hand there is obviously much to be said for avoiding the duplication and possible disagreements that will ensue if two different bodies are operating at the same time in the same field even if their two functions are not absolutely identical.

The committee had commenced the consideration of cl. 6 when they adjourned until Thursday, 17th March. The Attorney-General indicated that he should then be able to give further details of the scheme itself.

L. C. B. G.

HAZARDS OF SPORT

THERE is ancient precedent for the vicarious visitation of sin. The law, however, is here far behind Old Testament theology. Criminal liability cannot as a rule follow from anything less than direct participation in crime; while a man is responsible for torts committed by others only so far, generally speaking, as he may be said to have so entrusted the performance of his duties towards others to a servant or agent as to have elected to be bound by the servant's manner of observance of those duties. Though one can easily conceive a tortfeasor being successfully sued by someone whom he did not know he was injuring, the reverse position is normally an impossibility. If someone whom I cannot name and locate converts my property or assaults me, I am left to my impotent fuming. No identified tortfeasor, no damages. No longer is there, as in pre-Christian England, any group or family responsibility for wrongs by an individual. Two apparent exceptions emerge from recent cases with a games flavour.

First, club cricket. The plaintiff in *Stone v. Bolton and Others* [1949] 1 All E.R. 237 was standing on the highway outside her house, when a ball hit from the neighbouring cricket ground during a match struck and injured her. She did not sue the striker of the ball, but claimed (a) in negligence, (b) in nuisance, against the committee and members of the club; and Miss Stone failed. But it appears that she might have succeeded under (a) had she convinced the judge that the ground was not large enough for the practical purposes of safety or was not adequately fenced—club secretaries may study the report for dimensions of the ground and fences—or under (b) perhaps if, like the plaintiff in *Castle v. St. Augustine's Links, Ltd.* (1922), 38 T.L.R. 615, she had shown that balls were frequently hit on to the highway at or near the spot where she was injured.

The other case concerns professional football, and exemplifies a true throwback to the days of communal answerability. It is of some interest to social historians as well as to the legal profession. We leave it to the former to analyse in detail the motives which prompt human beings in civilised surroundings to forget momentarily the obligations of citizenship and to indulge in the common law misdemeanour of riot, sometimes with attendant felonies. Peace celebrations (*Ford v. Metropolitan Police* [1921] 2 K.B. 344), discontent among soldiers at a military camp (*Pitchers v. Surrey County Council* [1923] 2 K.B. 57), anger at the supposed conduct of sporting promoters (*Gunter v. Metropolitan Police* (1888), 5 T.L.R. 58)—these have all led in the past to disturbances which the courts have held riotous. The last-named motive was possibly at the root of the crowd's actions in *Munday v. Metropolitan Police District Receiver* (1949), 93 SOL. J. 72, but it is to be deplored that the victims of the proceedings were private householders not connected with the promoters. The occasion was the football match in November, 1945, between Chelsea and the Russian team, Moscow Dynamos. Many hundreds of people were unable to get into the ground, which had been closed some time before the start of the match because it was filled to capacity. The plaintiff's house was one of a number which were adjacent to the ground and, in the words of Pritchard, J., it was invaded by some of the crowd on a very large scale. According to the evidence, the garage gate was burst open, hundreds of people rushed in, two ladders were taken and many people climbed on to the roof of the garage to watch the match. The plaintiff's gardener tried to retrieve the ladders but was prevented and twice hit by members of the crowd. The increased tendency to gambling is clearly not the only anti-social consequence of big football.

In these circumstances the plaintiff claimed from the defendant compensation under the Riot (Damages) Act, 1886. As the preamble to that Act recites, the inhabitants of the hundred or other area had always been liable in certain cases to pay compensation for damage by rioters. The Act, then, introduced an administrative rather than a substantive

reform in providing that compensation for injury to, stealing or destruction of a house, shop or building (and that can include a wall) or any property therein, or machinery or ships stranded or wrecked, if done by any persons riotously and tumultuously gathered together, should be paid out of the police rate of the district in which the damage occurred. Thus it is that you and I can be made to pay collectively for the depredations of Messrs. Tom, Dick and Harry.

The ingredients of a riotous and tumultuous assembly within the Act are the same as for a common law riot, and are well known to be five in number (*Field v. Metropolitan Police* [1907] 2 K.B. 853). Less familiar is the procedure which must precede the bringing of an action. It is governed by s. 3 and by regulations thereunder (S.R. & O., 1921, No. 1536). A claim in the prescribed form must ordinarily be made within fourteen days to an authority ascertained by reference to the First Schedule to the Act. The claim must be verified, if the authority so requires, by statutory declaration, but proofs of the claimant's witnesses need not be furnished. After inquiry the authority is to fix such compensation as appears to them just. It is s. 4 which gives the claimant recourse to the courts. If he is aggrieved by the refusal or failure of the police authority to fix compensation or by the amount fixed, he may bring, not a penal action or an action for damages, but an action against the police authority to enforce his right to have the compensation fixed at a proper sum. No limitation period appears to be prescribed (see *Jarvis v. Surrey County Council* [1925] 1 K.B. 554); the Public Authorities limitation period certainly does not apply (*Kaufman Bros. v. Liverpool Corp'n.* [1916] 1 K.B. 860). Failure in the action entails liability for the authority's solicitor and client costs. The sum claimed by way of compensation must be specified in the claim to the police authority and cannot thereafter be increased.

Now let us look a little more closely at some of the decided cases, and see in what circumstances the five essential elements of a riot have been held to be present.

(1) There must be, to begin with, at least three persons gathered together. The place of assembly need not be a public one: in *Pitchers v. Surrey County Council*, *supra*, it was a military camp. The site of the camp had originally been within the police district, and was held not to have been taken out on being appropriated under the Defence of the Realm Regulations. That case also shows that it is likewise immaterial that the persons concerned are soldiers. A soldier remains subject to civil as well as military law, and the locality is responsible for the collective conduct in a private capacity of members of the armed forces enjoying its hospitality no less than that of civilian inhabitants.

(2) The assembly must have an unlawful common purpose involving a breach of the peace. As elsewhere in the law, it appears necessary to distinguish between broad motive and specific purpose. The desire to celebrate an outbreak of peace, after a long and tragic European war, is a motive not in itself unlawful. Bailhache, J., having heard the evidence, described the 150 to 200 persons assembled near Mr. Ford's empty house as being in very good humour. But when in their mood of jubilation they proceeded to formulate as an immediate common purpose the damaging of that house in order to obtain fuel for their bonfire, this second condition was fulfilled. Similarly, it may well be that some of the participators in the Chelsea riot had tickets for the match. Certainly all must have been actuated by a desire to watch it, a harmless enough pursuit even on a mid-week afternoon. Not even the momentous events of 1945, however, made it lawful for them to proceed to damage the plaintiff's property. The soldier-rioters in *Pitchers v. Surrey County Council* were held by Swift, J., to have manifested their common purpose by liberating other soldiers from the guardroom, breaking into stores and looting some shops, including the plaintiff's.

(3) The execution or at least the inception of the common purpose.

(4) An intention on the part of the persons in question to help one another, by force if necessary, against any opposition in the execution of the purpose. In *Ford's* case there was evidence that the crowd had pickaxes and crowbars, and Bailhache, J., thought that anyone who had interfered with them would have been subjected to rough usage. A similar inference was drawn from the conduct of the assembly in *Pitchers'* and *Munday's* cases. This was, however, one of the heads under which the plaintiff in *Field's* case failed to establish a riot. There a party of seven or eight youths were amusing themselves by running backwards and forwards pushing at a wall or at some of their number who were standing against the wall, the whole proceedings being accompanied by shouting and rough language. The wall endured this treatment for about a quarter of an hour and then subsided with a "splash." As soon as it fell a caretaker appeared on the scene and the youths made hasty departures in different directions. The Divisional Court found no reason to suppose that they would have resisted if the caretaker had come forward earlier and required them to desist.

(5) Lastly, there must be a display of force sufficient to alarm at least one person of reasonable firmness and courage. This element is indeed often the most difficult for a plaintiff to establish. Exceptional courage is at a discount here from the point of view of the plaintiff. There was no evidence that Mr. Field's caretaker was alarmed, though his wife was frightened by the noise of the falling wall. Nor was Mr. Munday's gardener afraid, but Pritchard, J., was disposed to consider him possessed of more firmness and courage than other witnesses. In *Ford's* case, Bailhache, J., accepted as sufficient the evidence of a neighbour that he did not interfere because he was afraid that if he did so he might be

killed. The situation was saved for Mr. Munday by the evidence of his daughter who had also been on the spot and who had made it plain that she was frightened. Her father therefore recovered the compensation he claimed.

Although the wording of conditions (4) and (5) suggests that the tests are to some extent hypothetical, there has apparently been no case where an assembly has been held riotous though no person was in fact intimidated. One can imagine damage being done by an assembly in the absence of anyone but the participators themselves. Would this rule out the fifth element if the court were satisfied, possibly on the evidence of a repentant rioter, that if any other person had been there he would have been alarmed? Bailhache, J., almost touched on this point. He said that he did not think that elements (4) and (5) were necessarily absent merely because the assembly, not being interfered with, went about its business quietly. That, he remarked, would lead to the impossible position that an assembly was not riotous unless it met with opposition.

While no question arises of any blame attaching to the police themselves, it is obvious that the plaintiff's own conduct in the riot and in the events leading up to it is a matter for consideration. In *Gunter v. Metropolitan Police*, *supra*, the judge accepted evidence which indicated that the plaintiff and his associates had to some extent let the public down in connection with the running match which they had promoted. It was argued that though this fact might tend to reduce the amount of compensation payable, it did not take away the plaintiff's right to recover against the police. Mathew, J., could not say that the conduct of the plaintiff's representatives was such as to enable him to allow the plaintiff compensation. His assistants had not attempted to explain to the crowd why the race would not be run. The maxim for showmen clearly should be "Spread the News."

J. F. J.

Divorce Law and Practice

SOME NOTES ON THE JURISDICTION OF MAGISTRATES' COURTS IN MATRIMONIAL MATTERS

Two errant husbands, north of the Border, have been responsible for cases of some general importance which have recently been before the Court of Appeal and the Divisional Court. In both cases their Sassenach spouses found that by bringing their claim for maintenance in the English courts the husbands were able to avoid being caught by the provisions of the Act. It is perhaps surprising that there have not, since these remedies became available, been more cases in which the question of jurisdiction of the magistrates arose. It speaks well either for the honour of Scottish husbands, or alternatively, for the astuteness of English wives, who would appear to have a great ability for bringing their claims in the competent court.

Before discussing these two cases and their effects it would perhaps be as well to look at the statute from which courts of summary jurisdiction draw their power to hear matrimonial cases for maintenance. By the Summary Jurisdiction (Married Women) Act, 1895, it is provided that any married woman whose husband shall have done any of a number of different things, e.g., deserted her, failed to provide reasonable maintenance for her, etc., "may apply to any court of summary jurisdiction acting within the city, borough, petty sessional or other division or district, in which any such conviction has taken place or in which the cause of complaint shall have wholly or partially arisen, for an order or orders under this Act . . ." In the two cases referred to above the facts were similar but not precisely the same. *Forsyth v. Forsyth* (1947) 91 Sol. J. 691, was the first case in point of time. The facts there were that at the time of the marriage the husband was in the Army and the wife went to live in Scotland with the parents of the husband. Later, shortly before the husband came out of the Army and when he was on leave, the husband told the wife that owing to the shortage

of space in his parents' home he had decided that she should return to England and he would follow her in a few days. She returned to her parents' home in London, but the husband never followed and never sent her any money. In due course the wife took out a summons against her husband alleging desertion on his part, and this she did in the petty sessional division in which she was resident. It was claimed on behalf of the husband that the court had no jurisdiction to make an order as he was a domiciled Scotsman. No evidence was called on his behalf to prove this fact, however, nor did the wife call any to disprove it. Thus it was that when the case came to appeal, the Court of Appeal assumed for the purposes of the case that the husband was at the material time ordinarily resident in Scotland while the wife, at the husband's request, was resident in England. On these facts the Court of Appeal reversed the decision of the Divisional Court and held that the justices had no jurisdiction. The reasons for this decision were based on observations of Lord Selbourne, L.C., in *Berkley v. Thompson* (1884), 10 App. Cas. 45, where he said that for the courts to have jurisdiction "not only must there be a cause of action of which the tribunal can take cognisance, but there must be a defendant subject to the jurisdiction of that tribunal; and a person resident abroad, still more, ordinarily resident and domiciled abroad, and not brought by any special statute or legislation within the jurisdiction is, *prima facie*, not subject to the process of a foreign court—he must be found within the jurisdiction to be bound by it." Some argument was put forward by counsel for the wife to the effect that the words of the Act of 1895 being in general terms, together with the fact that by the Summary Jurisdiction (Process) Act of 1881 it is possible to effect service upon persons outside the jurisdiction in Scotland, amounted to sufficient "special legislation"

to bring the husband within the jurisdiction of the magistrates' court concerned. This argument was, however, not accepted by the Court of Appeal, notwithstanding that it appears to have been the view accepted by Lord Merriman, P., when presiding over the Divisional Court at the time that the case had been before that body.

In *Macrae v. Macrae* (1949), 93 SOL. J. 88, the facts were only slightly different. In that case the husband and wife were, in June, 1948, living in Manchester, where the husband had been working for three years since his demobilisation. He then, for reasons which the court assumed to be without justification, refused to continue living there and he gave up his work and left, going to his parents' home in Inverness. The wife took out a summons against him before the justices in Manchester. This summons was served upon the husband in Inverness. In this case it was abundantly clear that though, while the husband and wife were together in Manchester, the husband might be said to have been ordinarily resident in Manchester, as soon as he left and returned to Inverness he was resident in Inverness and was outside the jurisdiction, as shown by the *dictum* of Lord Selbourne, L.C., quoted above. As both these cases were ultimately decided on the basis that the husband was resident outside the jurisdiction it is not easy to see how it can be said that they differ in any way. This point is, however, discussed at some length by Lord Merriman, P., in his judgment in the latter case. The learned President had some difficulty in deciding whether in *Forsyth v. Forsyth* the decision was based on the fact that the husband was domiciled in Scotland or resident in Scotland, but in the end he came to the conclusion that it was upon the latter assumption that the court had worked and he was able to fortify the view that the law depended upon residence and not domicile by a Scottish case which was absolutely on the point (*M'Queen v. M'Queen* (1920) 2 S.L.T. 405).

Thus from these two cases there would now seem to be little doubt that for the magistrates to be able to make an order against a husband the husband must not be resident outside the jurisdiction—and outside the jurisdiction in fact

at the material time. One is then bound to ask what the unfortunate wife can do in these circumstances, and one answer, though in the nature of things not a very satisfactory one, is to wait until the husband puts his nose over the Border and then promptly serve the summons upon him; for then, even though he be in England for however short a time, provided he is in England when the summons is served on him, he is within the jurisdiction. This rule derives from the well-known principle, referred to by Lord Russell of Killowen in *Carrick v. Hancock* (1895), 12 T.L.R. 59, that he who enjoys the protection afforded him by being within the jurisdiction must submit himself to that jurisdiction. In *Carrick v. Hancock* the defendant was served with a process whilst he was on English soil for a very short time on his way to Sweden. It could not be said that the defendant was resident in England and still less could it be said that he was domiciled in England, but it sufficed that he was in England in fact. The time that the defendant is on English soil is wholly immaterial, as Lord Russell pointed out in that case. Apart from this solution of the difficulty there seems to be very little that the wife can do to remedy the situation short of going to Scotland and applying under the corresponding provisions of the law of that country for an order for maintenance.

Thus, the two cases of *Macrae v. Macrae* and *Forsyth v. Forsyth* have brought to general attention the question of jurisdiction of the magistrates and show clearly that in order that the magistrates' court may have jurisdiction not only must they have jurisdiction to deal with the subject-matter of the claim but they must also have a defendant who is not outside the jurisdiction upon whom they can make an order. The test laid down by these cases as to whether or not a particular defendant comes within this jurisdiction, is whether or not he is resident in the jurisdiction. The meaning of "resident" in this connection is apparently the ordinary meaning of the word as used in common parlance. A husband who slips over the Border on business for a short time could not take advantage of the rule by saying that he was resident outside the jurisdiction.

P. W. M.

A Conveyancer's Diary

FAMILY PROVISION—II

THE last of the three recent cases decided under the Inheritance (Family Provision) Act, 1938, dealing with the important question of the time at which an application under the Act should be made is *Re Bidie* (1948) 92 SOL. J. 705. The facts of this case were as follows: The testator died on the 16th January, 1945, apparently intestate, and letters of administration to his estate were granted to the widow and one of the deceased's children on the 13th April, 1945. Some eighteen months later a will was discovered, whereby the deceased was found to have left his whole estate to his children and nothing to the widow, and as a result of that discovery the grant of letters of administration to the deceased's estate was revoked, and probate of the will granted. The grant of probate was made on the 7th September, 1946, and on the 8th January following the widow took out a summons asking for provision to be made for her under the Act.

The result of all this was that the summons was taken out within six months from the date on which probate of the deceased's will was granted, but more than six months after the date on which the original grant of representation on the footing of intestacy had been made. Section 2 (1) of the Act, it will be recalled, provides that an order under the Act shall not be made except under an application made within six months of the date on which representation in regard to the testator's estate for general purposes is first taken out, and the question therefore arose whether, for the purposes of this provision and in the events which had happened, representation in regard to the deceased's estate for general purposes had been taken out on the 13th April, 1945 (when the grant of administration was made), or on the 7th September, 1946 (when probate of the will was granted).

In the former case it would not have been competent for the court to entertain the widow's application for provision, in the latter it would.

The Court of Appeal held that representation, in the context of s. 2 (1) and of the Act as a whole, and in the particular events which had happened in this case, meant the grant of probate and did not include the grant of letters of administration. The broad ground for this decision was that the period of limitation prescribed by s. 2 (1) did not begin to run until representations in regard to the testator's estate had been taken out, and that such representations could only be said to be taken out if the deceased was during the requisite period a testator. The contrary view, that the quality of being a testator is something which attaches to a deceased *ex post facto* as soon as a will is found, was expressly rejected as artificial. On this interpretation the grant of letters of administration could be disregarded for the purposes of the Act, and as the application was in time in relation to the grant of probate, it could be entertained.

It is worth noting, however, that Jenkins, J., before whom the matter came at first instance, took a different view (see [1948] Ch. 697), and in the course of his judgment posed a problem which will certainly come up for decision in due course. The problem was what would happen if probate of one will were granted, and then more than six months afterwards probate of that will were revoked on the discovering of another will; and the learned judge's conclusion was that in such a case the period of limitation would run from the date of the first grant. This hypothetical case was clearly different from that which actually arose in *Re Bidie*, but it indicates the limited nature of this decision.

The salient points from the recent cases on the construction and effect of the limitation provisions contained in s. 2 (1) of the Act may be summarised as follows:—

(1) An application made by a summons issued before the date on which probate is granted is not necessarily bad (*Re Searle* [1949] Ch. 73). But as it is necessary that in the ordinary case the executor or other personal representative should be made the defendant to any summons under the Act, it is possible that a summons issued before probate will be struck out as irregular on the ground that at the date of the summons there was no such person as an executor or personal representative of the deceased, provided that the objection is taken in good time, i.e., before the hearing of the summons (*ibid.*).

(2) For the purposes of the limitation period any grant of letters of administration made on the footing that the deceased died intestate may be completely disregarded, and this period of limitation will be regarded as beginning to run only from the date of a grant of probate (*Re Bidie, supra*).

(3) *Seemle*, where there are two or more successive grants of probate, the earlier being revoked upon the grant of the later, the period of limitation begins to run from the first grant, even if the will of which probate is there granted affords no occasion for an application under the Act.

(4) The exception contained in s. 4 (1) of the Act, to the effect that on an application made after the expiration of the normal period of six months from the date of probate an order for "making provision for another dependant" may be made, allows the court to entertain an application out of time under the normal rule only if an order has already been made for provision out of that estate for another dependant, and that order is still current. It does not allow the court to make such an order where the dependant in question is enjoying provision, not as the result of an order under the Act, but under the testator's will (*Re Dorgan* [1948] Ch. 366).

The remaining case decided under the Act in the course of 1948 was also concerned with procedural matters, although

not, in this instance, with the limitation provisions of the Act. This was the case of *Re Borthwick* (1948), 92 Sol. J. 484, where the plaintiffs applied for an order for discovery against the personal representatives of the deceased with a view to testing the value which the latter had put upon certain items comprised in the deceased's estate. Roxburgh, J., dismissed the application, and his decision was upheld on appeal. The rules regulating the making of applications under the Act are contained in R.S.C., Ord. 54F, but the application for discovery was made not under this code, but under the general jurisdiction of the court. The court considered that in proceedings started by originating summons there is no such right to general discovery as exists in proceedings conducted by pleadings, and that if in the former class of proceedings it is desired to apply for discovery, a special case must be made out and supported by evidence indicating the reasons for what must be regarded as a departure from the usual procedure. *Re Borthwick, supra*, should not, therefore, be regarded as an authority for the view that in no case under the Act will an order be made for discovery.

On the other hand, the powers of the court under R.S.C., Ord. 54F, r. 3 (2) (a), to require evidence on any relevant matter to be given by any person who is either a party to the proceedings, or has been served with notice thereof, are so wide that the necessity for discovery is unlikely to arise very often.

The substantial decision in *Re Borthwick* is now reported shortly in [1949] W.N. 90, and shows that the court will on occasion make substantial provision for a dependant if the estate is large, even if the provision made by the deceased in his lifetime for the dependant in question was small. In this respect the decision is an important counterpoise to *Re Inns* [1947] Ch. 576, which has sometimes been regarded as authority for the view, wider than any in fact justified by the judgment, that the court approaches any application under the Act for anything more than bare subsistence with something like reluctance. The true view is that every case is regarded on its own merits.

"ABC"

Landlord and Tenant Notebook

GOODWILL: SUCCESSIVE TENANCIES

THE decision in *Lawrence v. Sinclair* [1949] 1 All E.R. 418 (C.A.) disposes of a problem, or one of a number of similar problems, gone into in the "Notebook" on 16th December, 1944 (88 Sol. J. 420).

The facts were that an applicant for compensation for loss of goodwill under the Landlord and Tenant Act, 1927, had taken an assignment of the residue of a lease for a term of years and on its expiration had held over as a yearly tenant for two years, when the yearly tenancy was determined by a notice to quit given by the respondent. The original lease was for twenty-one years (less three days), and when assigned to the applicant had some eleven years to run. During that period and that of the ensuing yearly tenancy, goodwill became attached which the learned referee, while considering that he had no jurisdiction because of the change of title, assessed at £465. The learned county court judge held that there was jurisdiction, and the Court of Appeal agreed.

The point was whether the tenant had brought himself within the italicised portion of the following extract from s. 4 (1) of the Act: "the tenant shall . . . be entitled . . . to be paid by his landlord compensation for goodwill if he proves . . . that by reason of the carrying on by him or his predecessors in title at the premises of a trade or business for a period of not less than five years goodwill has become attached to the premises . . ."

It is interesting to note that while the three judgments delivered by the Court of Appeal (Bucknill and Asquith, L.J.J., and Hodson, J.) proceed on the basis that the meaning of the words was plain and unambiguous so that there was no

occasion to resort to the device of inquiring what evil was sought to be remedied or examining other provisions, both Bucknill and Asquith, L.J.J., did point out that application of such tests would produce the same result.

Their observations are likely to prove important if and when kindred problems (some of which were mooted in the "Notebook" mentioned) should arise, and I will suggest possible situations of this kind later. As regards the actual *ratio decidendi*, this is well represented by Bucknill, L.J.'s rhetorical "Has he proved that, by reason of the carrying on by him at the premises of a trade or business for a period of not less than five years, goodwill has become attached to the premises? He has proved that. Why, then, should he not get compensation?" coupled with Asquith, L.J.'s "the landlord . . . bases his contention on the ground that the five years referred to must be five years during which the tenant is holding under a single tenancy or title . . . The subsection nowhere says that the five years must be under a single tenancy, and there seems to be no room and no need for any such implication."

In so far as other tests might be applied, Bucknill, L.J., first referred to the preamble to the Act: "to provide for the payment of compensation for improvements and goodwill to tenants of premises used for business purposes, or the grant of a new lease in lieu thereof; and to amend the law of landlord and tenant" (the last words, surely, indicated Pt. II, limiting dilapidations, implying qualifications in restrictive covenants, etc.). To read the words that the tenant must have held the premises under one and the same title would defeat the

object of the Act. While Asquith, L.J., observed that the evil struck at, which was the appropriation by the landlord of the fruits of the tenant's industry and labour, would be just the same whether the five years were spread over one tenancy, or two tenancies, or a dozen.

The claimant in the above case had, presumably, qualified for compensation when the first tenancy ended; so as far as moral rights are concerned, it might be said that an adverse decision would have meant frustration by technicality. But the authority clearly establishes that a three years' tenancy plus two years' holding over from year to year would satisfy the requirement. It also shows that a landlord who has granted (expressly or by implication) a yearly or other periodical tenancy may in effect be able to defeat the object of the Act by giving a notice to quit expiring before five years have elapsed, and granting a new tenancy to commence a week after such expiration. It was conceded in the course of *Lawrence v. Sinclair*, and Asquith, L.J., said it was clearly implied in the expression "period of five years," that that period must be continuous. And a week's interruption, while it would probably have some prejudicial effect on the yield of fruit to be appropriated, would certainly not destroy the crop.

But what the decision itself does not cover is the case of a claimant who may have carried on a trade or business on the premises for a vital part of the qualifying period otherwise than as a tenant, say as freeholder, licensee, tenant for life, or even trespasser (innocent or otherwise). The expression "tenant," according to the interpretation section (s. 25) means any person entitled to the holding under any contract of tenancy, whether the interest of such tenant was acquired by original contract, assignment, operation of

law or otherwise. Obviously, the claimant must answer to that description when he makes his claim "in the prescribed manner—(i) in the case of a tenancy terminated by notice, within one month after the service of the notice on the tenant; and (ii) in any other case, not more than thirty-six nor less than twelve months before the termination of the tenancy" (s. 4 (1)). But a freeholder shopkeeper who, say in order to raise money, has sold his premises subject to the purchaser granting him a tenancy could, before five years of that tenancy elapsed, be in a position to prove that he had carried on business at the premises for the requisite period.

I suggest that in such a case there would be good reason for a departure from literal interpretation, and that the subsection would rightly be read as meaning a tenant who has held the holding as such (the words "carrying on by him or his predecessors *in title*" might support this view) at the premises demised throughout that period. Otherwise, while the object described in the preamble might be served, the purchaser-landlord might be called upon to pay twice for the same accretion of goodwill. The judgment of Hodson, J., in the case under discussion includes the following: "On the simple construction of s. 4 the tenant qualifies for compensation if he is tenant at the time of quitting the holding, notwithstanding the fact that the tenancy which then came to an end has not subsisted during the whole five years." This, I submit, contemplates that it must follow another tenancy or tenancies, and not occupation under a different kind of title (or no title). But, while *Lawrence v. Sinclair* was a case of holding over in the traditional way, the decision would cover, it would appear, a case in which a succeeding tenancy were negotiated, including one in which the terms differed from those of the earlier grant.

R. B.

HERE AND THERE

A ROYAL OCCASION

WHERE shall we start this week's ramble? Well, ladies first and visitors first. Old Father Antic the Law has been rubbing his eyes in the radiance of unaccustomed glamour. It's forty years since he saw royalty at the Old Bailey and then royalty was regally bearded and venerable in years, the Seventh Edward coming to turn over the new leaf in the life of the City of London's palace of criminal justice, replanned, rebuilt, cheerfully gilded and ready for the brave new glories of the twentieth century. Those glories have not been quite what the City Fathers expected, but forty years after and three generations on, royalty returns to the Old Bailey and royalty is young and lively and beautiful and charming as one would like Princesses always to be. So to the bomb-wrecked City courts comes a promise of spring.

LEGAL GRAND TOUR

ACROSS the broad Atlantic there came in the same week a visitor, one with a strong professional interest and hereditary legal ability to reinforce an inquiring mind. What was her idea of a holiday in Europe? To see the Law Courts at work in Rome, Athens, Brussels, Paris and now London. With a lawyer for her father and a lawyer for her mother, cradled in jurisprudence, rocked in the bosom of the law and, inevitably, herself a lawyer, had Miss Camille Hudson, of South Carolina, anything of that "professional deformation" which might well have been the natural and probable consequences of such heredity and such environment? Not a bit of it. Show a stranger her photograph and make him guess her calling and it will be by no process of logical deduction if he links that upswept hair, those laughing eyes, that trim figure with that all too serious blindfold lady who holds the sword and scales, or for the matter of that with digests, conveyancing and the American Restatement. We hope she liked the Law Courts well enough to turn in again at the Strand. But for sheer entertainment value we greatly fear that we can't compete with Paris where the goings on at the Palace of Justice leave the spring dress shows far out in the cold. The Kravchenko trial is not yet over and here comes the case of the Forty-Seven Film Stars, who are jointly claiming £100,000 damages from a newspaper widely read for its emphatically personal angle on people in the news. It is this method applied to their private lives of which the plaintiffs make complaint, but we are too little versed in the Code Napoléon to be able to state as yet whether their cause of action is libel in our English sense or

another cause of action known, we believe, beyond the Atlantic but not on this side of the Channel—"invasion of privacy." The nuisance we know well enough, but over here it is *damnum absque injuria*. Coincidentally, there has just been an instance of a claim for damages on that very ground in the Los Angeles Supreme Court. The plaintiff was a film actor and the court dismissed the case on the ground that he had no privacy to invade.

WHEN BEAUTY PLEADS

As for the French case, one may, perhaps, venture to say, without risk of contempt of court, that the plaintiffs, mustering as they do all the most accomplished charmers of the national screen, including Danielle Darrieux, Simone Simon and Anabella, start the battle with a very heavy advantage. (Jane fighting her High Court action in the *Daily Mirror's* comic strip has nothing beside this massed battery of glamour.) Even England, not very much given to filmland actions, can look back on those £25,000 damages recovered in 1934 by Princess Yousouppoff for a libel of her in a picture about the life of Rasputin, by Metro-Goldwyn-Mayer Pictures, Ltd. Those were the days, in the King's Bench Division—Sir Patrick Hastings for the plaintiff, Sir William Jowitt for the defendant film company, Avory, J., on the Bench, and the full damages held in the Court of Appeal. Even Avory, J., that image of Rhadamanthine justice, usually handier with the statute book than a literary allusion, came out with an apt quotation: "'All orators are dumb when beauty pleads.' Not so Sir William Jowitt." But Sir William had brought it on himself, by himself praying in aid other lines from "The Rape of Lucrece." All must surrender and come to when beauty doth her power pursue. Certainly it was true when Lord O'Brien of Kilfenora was Chief Justice of Ireland. From Serjeant Sullivan we have heard how much he appreciated the right sort of face to a witness and experienced practitioners did not neglect this aspect of a case in advising on evidence. Once, in a hopeless struggle at the Limerick Assizes, the last reserve thrown in to stave off defeat was a supremely pretty girl. O'Brien turned to counsel: "Mr. Kelly, Mr. Kelly, this will not do," said he sadly, "there may have been occasions when testimony of this kind might have affected me but that is a long time ago. I am now an extinct volcano." But Kelly knew his judge. "I dinnow, me lord," he said "but there might be a few rumbles in the old crater yet."

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NOTES OF CASES

HOUSE OF LORDS

SERVICE OUT OF JURISDICTION: ACTION "PROPERLY BROUGHT"

Tyne Improvement Commissioners v. Armement Anverso S/A (The Brabo)

Lord Porter, Lord Simonds, Lord du Parcq, Lord Normand and Lord MacDermott. 19th January, 1949

Appeal from the Court of Appeal ([1948] P. 33).

The defendants owned the steamship "Brabo" which, in March, 1942, sank in the Tyne, for which the plaintiffs were the conservancy authority, in consequence of a collision for which she was held 70 per cent. to blame. As she was an obstruction, the plaintiffs incurred great expense in removing her and her cargo. They claimed to recover the costs so incurred under their own statutory powers and under the Harbours, Docks and Piers Clauses Act, 1847. The second defendants were the Minister of Supply who, or, alternatively, a certain steel company (the third defendants), was alleged to be liable as owner of a part cargo of steel. The Minister was also sued as owner of a part cargo of wood pulp. The Court of Appeal, reversing Pilcher, J., in Chambers, held that the second and third defendants were "proper parties" to the action, but that as they were cargo-owners on behalf of the Crown the claim could not succeed against them so that the proceedings were not "properly brought" within R.S.C., Ord. XI, r. 1, and the plaintiffs were thus not entitled to serve a concurrent writ on the defendant shipowners outside the jurisdiction. The rule provides: "Service out of the jurisdiction . . . may be allowed . . . whenever . . . (g) Any person out of the jurisdiction is a necessary or proper party to an action properly brought against some other person duly served within the jurisdiction." The plaintiffs appealed.

The House took time for consideration.

LORD PORTER said that the plaintiffs argued that no facts established showed that the action must fail and that in any case an action might be properly brought though its success was uncertain, whether that uncertainty was due to a doubt as to the law or as to the facts in dispute. He could not accept the contention that if the claim was brought *bona fide* the chances of success or failure were irrelevant, but the first contention raised questions of some difficulty. Was it enough that there was a reasonable doubt either in law or in fact as to what the result of the case against the defendants within the jurisdiction might be, or must the court decide on the hearing of the summons whether or not the plaintiff would succeed against them? Where all the facts necessary for a decision were set out by one side or the other and not contradicted, the tribunal must make up its mind on the hearing of the summons, at any rate where the law was plain. Where there was a substantial question of fact in issue, no doubt leave should be given. It might even be that the existence of an exceptionally difficult and doubtful point of law would of itself be enough. In the present case, however, the answer was sufficiently clear. The right of the plaintiffs to charge the shipowners with the expense of disposing of the wreck was to be found in the various Tyne Improvement Acts (see s. 42 of the Act of 1890). The plaintiffs contended that the Minister and the steel company must come within one of the classes included in the definition of owner in s. 3 and were therefore properly the subjects of an action brought against them after due service within the jurisdiction. If no question arose as to the position of these two parties as agents for the Crown the claim would be incontrovertible, but the claim was in substance against these parties as agents for the Crown. The Crown itself would have been free from liability. The action against the two parties within the jurisdiction must plainly fail and the action was not "properly brought" against them within r. 1 (g).

The other noble and learned lords agreed that the appeal should be dismissed.

APPEARANCES: *Carpmael*, K.C., and *A. J. Hodgson* (Bentleys, Stokes & Lowless, for *Bramwell, Clayton & Clayton*, Newcastle-on-Tyne); *Sir William McNair*, K.C., and *Mocatta* (Holman, Fenwick & Willan).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL
JURISDICTION: PLEA ENTERTAINABLE AT ANY STAGE
Chief Kwame Asante v. Chief Kwame Tawia

Lord Simonds, Lord Uthwatt, Lord Morton of Henryton, and Lord Reid. 17th January, 1949

Appeal (by special leave) from the Court of Appeal, West Africa.

A dispute between two chiefs as to ownership of certain land came before a native court of B Grade constituted under the Native Courts (Ashanti) Ordinance, 1935. The unsuccessful chief appealed unsuccessfully to Court A, and the Chief Commissioner's Court and the Court of Appeal also dismissed his appeal. He now appealed. During the hearing before the Court of Appeal it was for the first time suggested, and made a ground of appeal, that the trial court, Court B, was not validly constituted for the hearing of the case in that certain chiefs had sat as judges in that court who were not qualified to sit, and that the proceedings before that court must accordingly be regarded as *coram non judice* and its judgment as a nullity. On that the Court of Appeal observed that that additional ground of appeal was filed without the necessary leave of the court, and that it was too late in the proceedings to raise a point of that nature, which was not raised in any of the three courts below or at the beginning of the hearing of the appeal in that court.

LORD SIMONDS, delivering the judgment of the Board, said that their lordships expressed no opinion on the merits of the appeal, for a preliminary question had to be determined. They could not accept the Court of Appeal's handling of the point of jurisdiction raised before it. If it appeared to an appellate court that an order against which an appeal was brought had been made without jurisdiction, it could never be too late to admit and give effect to the plea that the order was a nullity. The Court of Appeal had gone on to say that in any case, having heard all that the appellant had to urge in support of the ground, it was not satisfied that there was any substance in it. That was not in form or content such a judgment as the learned judges would have pronounced if they had not wrongly thought that the point was not open to the appellant. Before their lordships the question was fully argued, and they had come to the conclusion that there was at least a *prima facie* case which required investigation; but, in order that they might have all the necessary material for a final decision, the case should be remitted to the Court of Appeal to consider and pronounce on that matter of jurisdiction. Case remitted.

APPEARANCES: *T. B. W. Ramsay* (A. L. Bryden & Co.) *Gahan* (Sole, Sawbridge & Co.).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CRIMINAL LAW: ADMISSIBILITY OF EVIDENCE
Noor Mohammed v. R.

Lord Uthwatt, Lord du Parcq and Lord Oaksey, and
Sir Madhavan Nair and Sir John Beaumont
19th January, 1949

Appeal (by special leave) from conviction of murder by a jury before Jackson, J. (acting), in the Supreme Court of British Guiana.

The appellant, who pleaded not guilty, was alleged to have murdered a woman called Ayesha by potassium cyanide poisoning. The chief question on the appeal was whether evidence was properly admitted at the trial, in 1947, that on 17th May, 1944, the appellant's wife Gooriah had died of potassium cyanide poisoning in similar circumstances, although the wife's death had not been the subject of any criminal charge.

LORD DU PARCQ, delivering the judgment of the Board, observed that the same principles of criminal law were applicable in British Guiana as in England, cited the principles laid down by Lord Herschell, L.C., in *Makin v. Att.-Gen. for New South Wales* [1894] A.C. 57, at p. 65, and said that their lordships had considered with care whether the evidence in question could be said to be relevant to any issue in the case. The manner of Ayesha's death, even without the evidence as to the death of Gooriah, would undoubtedly arouse suspicion against the appellant in the mind of a reasonable man. The facts proved as to the death of Gooriah would certainly tend to deepen that suspicion, and might well tilt the balance against the appellant in the estimation of a jury. It by no means followed that that evidence ought to be admitted. If an examination of it showed that it was impressive just because it appeared to demonstrate, in the words of Lord Herschell, L.C., "that the accused is a person likely from his criminal conduct or character to have committed the offence for which he is being tried," and if it was otherwise of no real substance, then it was certainly wrongly admitted. After fully considering all the facts which, if accepted, it revealed, their lordships were not satisfied that its admission could be justified on any of the grounds which had been suggested or on any other ground. Apart from other considerations, there was no direct evidence in either case that the appellant had administered the poison. Their lordships' statement of the principles to be applied to such a case as this, and of the right way of applying them, might not accord with some at least of

the *dicta* in a recent decision of the Court of Criminal Appeal in England. His lordship referred to the judgment in *R. v. Sims* [1946] K.B. 531, at p. 539; 90 Sol. J. 381, and said that, with all due deference to the Court of Criminal Appeal, their lordships were not convinced that the method of approach which it had there approved had any advantage over that which it had rejected as incorrect. The expression "logically probative" might be understood to include much evidence which English law deemed to be irrelevant. The passage quoted seemed intended at least to bear the meaning that evidence ought to be admitted which was in any way relevant to a matter which could be said to be in issue, however technically, between the Crown and the accused person. If their lordships had correctly understood the *dicta* quoted, they could only regard them as in some degree inconsistent with settled principle. Though they had been unwilling to adopt the approach to the problem which the Court of Criminal Appeal had recommended, they of course refrained from expressing any opinion as to the propriety of the actual decision in *R. v. Sims, supra*. It was unnecessary, and therefore undesirable, that they should do so. Appeal allowed.

APPEARANCES: *W. W. K. Page, K.C.*, *T. B. W. Ramsay* and *A. Stone (Hy. S. L. Polak & Co.)*; *Gahan (Burchells)*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

COURT OF APPEAL

RENT RESTRICTION: STANDARD RENT *Alliance Property Co., Ltd. v. Shaffer*

Tucker and Denning, L.J.J., and Roxburgh, J.
12th January, 1949

Appeal from Slade, J. (92 Sol. J. 471; 64 T.L.R. 424).

By a lease dated 31st May, 1934, the plaintiff landlords let a flat within the Rent Restriction Acts to a tenant at a rent of £175 a year. Later that day a supplementary deed was executed between those parties providing that the tenant should pay another £100 a year in respect of the cost of alterations to the flat and of management of the building. The supplementary deed provided that it was to run concurrently with the lease and that the payments under it were to be recoverable in the same way as rent. By s. 12 (1) (a) of the Rent, etc., Act, 1920, as modified by Sched. I to the Rent, etc., Act, 1939, the standard rent of the flat was the rent at which it was let on 1st September, 1939. In an action by the landlords for arrears of rent at £300 a year under a lease of the flat to the defendant dated 23rd May, 1944, the tenant counter-claimed for rent overpaid on the basis of the standard rent which he alleged to be £175 a year. Slade, J., held that the £100 a year was rent within the principles laid down in *Property Holding Co., Ltd. v. Clark* [1948] 1 K.B. 630, and gave judgment for the landlords. The tenant appealed.

TUCKER, L.J.—DENNING, L.J., and ROXBURGH, J., agreeing—said that the *dictum* of Younger, L.J., in *Wilkes v. Goodwin* [1923] 2 K.B. 86, as approved with modification by the Court of Appeal in *Property Holding Co., Ltd. v. Clark, supra*, made it clear, if regard were had to the substance of the transaction, that the additional £100 was part of the monetary compensation payable by the tenant in consideration for what had been granted to him by the landlord under the two documents taken together, and was accordingly "rent" within the meaning of the Rent Acts. The standard rent on 1st September, 1939, was thus £275, and the judgment in favour of the landlords must stand. Appeal dismissed.

APPEARANCES: *Michael Hoare* and *T. H. K. Berry (Clifford-Turner & Co.)*; *L. A. Blundell (Bernard Shaffer)*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

BUILDER: WORK IN EXCESS OF LICENCE *Dennis (J.) & Co., Ltd. v. Munn*

Bucknill and Denning, L.J.J., and Jenkins, J.
23rd February, 1949

Appeal from Marylebone County Court.

The plaintiffs, a company of builders, undertook to execute work of repainting to the front of the defendant's house for £50. She informed the builders that she had a licence for the work, and gave them its reference number. The builders telephoned to the local authority, ascertained that the defendant had a licence for work to her house, and proceeded to repaint. The licence which the defendant had for work to her house had been obtained on the basis of an estimate of £294 for extensive work to the house given by another builder. Of that work £34 only related to the outside painting of the house, which painting was accordingly licensed only to that amount. Being dissatisfied with the way in which the builders had repainted the house, the

defendant refused to pay more than £30 for it. On the builders' claim for the balance of the price, the county court judge found that the work had been properly done, but dismissed the action on the ground that the builders had done work in excess of the licensed cost, and, in particular, rejected the builders' contention that to the amount licensed might be added the sums of £10, and £2 a month for the two months covered by the work, which sums the defendant was entitled to spend under the general licence for work given by the Control of Building Operations (No. 8) Order, 1947. The plaintiffs did not dispute, on this appeal, that, apart from the question of the £14, no sum was recoverable in excess of the licensed amount. By reg. 56A (2) of the Defence (General) Regulations, 1939, specified work, including "maintenance work on a building", is unlawful without a licence, "Provided that the Minister may by order authorise the carrying out of such work without a licence within such limits of cost as may be specified."

BUCKNILL, L.J., said that the builders were not entitled to recover on the basis of adding the £14 licensed by the order to the amount of the defendant's licence, for the proviso to reg. 56A (2) was intended to apply to small items of work of the kind specified which did not cost more than £10 over the period and £2 in any month. It was not intended as an indirect addition to the amount of any particular licence to do building work, or to authorise the exceeding of such a licence by £10 and £2 a month.

DENNING, L.J., agreeing, said that builders must not simply take the building owner's word that he had the necessary licence. If they did not ask to see the licence, and it turned out that he had not the necessary licence, they had acted illegally and could not recover. They could not recover even the amount of the general licence, for they did not act under it and could not do so since the work in question exceeded the amount of that licence. A general licence was only available in respect of severable work, ordered separately and executed separately. When there was one indivisible work in hand, covering more than the general allowance, then a specific written licence must be obtained. It was not possible to increase the limit of the specific allowance by adding on it to the general allowance.

JENKINS, J., agreed.

Appeal dismissed.

APPEARANCES: *Garland (Masons)*. The defendant appeared in person.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

INCOME TAX: RELEVANCE TO ASSESSMENT OF DAMAGES

Billingham v. Hughes and Another

Tucker and Singleton, L.J.J., and Birkett, J.
10th March, 1949

Appeal from Croom-Johnson, J.

The plaintiff suffered certain injuries in an accident on 28th November, 1947. Croom-Johnson, J., held that they were caused by the negligence of the first defendant, and awarded the plaintiff £4,000 in respect of pain and suffering and £20,000 for compensation for estimated loss of earnings for the remainder of his working life. The defendants appealed on the ground that the damages were excessive and that the judge had failed to take into account the fact that the plaintiff's fees would have been reduced by taxation. Before the accident the plaintiff, who was fifty-one, had practised as a general medical practitioner. His injuries had rendered him physically incapable of carrying out those duties, but he was also a skilled radiologist, and, as the duties of a radiologist were almost entirely sedentary, he could still practise that branch of medicine. Croom-Johnson, J., had estimated the remainder of the plaintiff's working life at fifteen years. He took the loss of earnings at £2,000 a year, making £30,000, and discounted £10,000 to allow for contingencies, because the plaintiff was receiving a large capital sum down, and for his increased earnings as a radiologist. (*Cur. adv. vult.*)

TUCKER, L.J., said that Croom-Johnson, J., could not have given sufficient weight to the fact that the plaintiff could now devote the whole of his time to radiology. The figure of £20,000 was so greatly in excess of a proper estimate of his loss of earning capacity that it should be reduced to £10,000, which, with the £4,000 for pain and suffering, would reduce the total to £14,000. The defendants had, however, contended that, whereas the fees which the plaintiff would have received would have been reduced by income tax, the sum assessed did not reflect that fact. *du Parc, J.*, had rejected that argument in *Fairholme v. Thomas Firth & John Brown, Ltd.* (1933), 49 T.L.R. 470, and so had *Atkinson, J.*, in *Jordan v. Limmer & Trinidad Lake Asphalt Co.* [1946] K.B. 356, after the introduction of P.A.Y.E. The present case was the first in which the Court of Appeal had been called on to consider the matter. But for his accident the

plaintiff would have earned £x in fees in any year ending 5th April. On 1st January in the following year a sum would have become due to the Revenue in respect of those fees. Meanwhile, he would have had the use of the £x. The principle of *restitutio in integrum* required that he should be put in the same position *vis à vis* his patients as that in which he would have been—that was, that he should receive his fees in full and that questions of ultimate liability to the Revenue did not concern the defendants. Different considerations might arise in cases of P.A.Y.E., but he (his lordship) was casting no doubt on the correctness of Atkinson, J.'s decision. In Scotland the view for which the defendants contended had been taken in *M'Daid v. Clyde Navigation Trustees* [1946] S.C. 462, but it seemed to him (his lordship) to be fallacious. The sum of £14,000 would be substituted for that of £24,000.

SINGLETON, L.J., agreeing, said that general damages in respect of loss of future earnings would not be subject to income tax. In assessing those damages, no reduction should be made in respect of the tax which would have been payable on such earnings. Cases of P.A.Y.E. would, he thought, be in the same position.

BIRKETT, J., agreed.

APPEARANCES: *Berryman, K.C.*, and *Blain (Treasury Solicitor)*; *Beresford, K.C.*, and *G. Pollock (Gepp & Sons)*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

COAL NATIONALISATION: COMPENSATION: LAST COMPLETE ACCOUNTING PERIOD

New Rock Colliery Co., Ltd. v. Ministry of Fuel and Power

Vaisey, J. 23rd February, 1949

Adjourned summons.

By the Coal Industry Nationalisation Act, 1946, s. 19, a colliery company is entitled to interim income before final compensation is awarded, to be ascertained in accordance with s. 22 of the Act. The computation is to be based on income tax principles by reference to the profits of the company for its last complete accounting period before 1st July, 1946, or an average of profits over two such periods, whichever the company elects. The New Rock Colliery Co. worked a small colliery in Somersetshire, and it had always had its accounts made up quarterly for periods ending on the last day of March, June, September and December, on each of which dates the balance sheet was regularly prepared and audited. For the purpose of computing the company's liability to income tax, the accounts for the four quarters were added together, and these accounts were presented at the annual general meeting. The company was a private company with only two shareholders, both being directors. The company contended that the "last accounting period" was that of the three months ending 30th June, 1946; the Minister that it consisted of the twelve-monthly period ending 30th September, 1945, that being the combined account laid before the shareholders at the annual general meeting of the company.

VAISEY, J., said that a somewhat similar question arose in *Jenkins Productions, Ltd. v. Inland Revenue Commissioners*, (1944) 170 L.T.R. 292, where the company took half-yearly accounts, and combined them into one annual account for the purpose of the general meeting. The Court of Appeal held that the twelve-monthly account, and not the last six-monthly account, was the final account. That was in that case the company's financial period. Here the language of the Act was different, the words "last complete accounting period" indicated that the accounting period might be more or less than twelve months. In his opinion those words make all the difference. There was no doubt the company did make up accounts quarterly and had done so without any ulterior object for years. He therefore held, though with some hesitation, that the "last accounting period" for the purposes of s. 19 of the Act before 1st July, 1946, was the three-months' period ending 30th June, 1946.

APPEARANCES: *Wilfrid Hunt (Church, Adams, Tatham & Co., for Burges, Salmon & Co., Bristol)*; *D. H. McMullen (Treasury Solicitor)*.

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

GIFT TO TRUSTEES: RESULTING TRUST FOR NEXT OF KIN

In re Rees' Will Trusts; Williams v. Hopkins

Vaisey, J. 25th February, 1949

Adjourned summons.

The testator T. R. Rees by his will made in 1936 appointed two persons, one his solicitor, to be his executors and trustees, and devised and bequeathed all his property to them absolutely,

"they well knowing my wishes concerning the same." He directed them to permit his brother, who predeceased him, to receive certain rents. The testator died in 1944 and his will was proved in March, 1945, the estate being upwards of £30,000. One executor died in 1945 and his legal personal representatives were added as defendants. The testator left no near relatives. The brother having predeceased him, the "wishes" referred to in the will could not exhaust the residue, and the question raised by the summons was whether the trustees took the surplus beneficially or whether they held it on trust for the testator's next of kin.

VAISEY, J., said that the evidence showed that the testator's chief concern was for his brother. He appeared to have no very definite wishes apart from the brother and he left the property to his trustees on the understanding that they should carry out certain wishes he had previously communicated to them. He gave the impression that he had not much money to leave, and the gifts he wanted to make amounted to about £8,000 in favour of certain named persons, a church and some charities. It was well settled that if a gift was made to a person as a trustee, evidence was not admissible to show that he was to take beneficially (*Irvine v. Sullivan* (1869), 8 Eq. 673; *Croome v. Croome* (1888), 59 L.T. 582; and see *Theobald on Wills*, (10th ed., at p. 339). Here it was plainly a gift to the two persons as trustees. Neither of them was a relation of the testator. In his lordship's judgment the only effect he could give to the will was to hold that the trustees took as trustees for the particular persons and objects mentioned in the plaintiff's affidavit, and subject thereto for the statutory next of kin of the testator and not for themselves. The surplus passed as on an intestacy.

APPEARANCES: *Raymond Jennings, K.C.*, and *M. Bowles (Chamberlain & Co., for Beor, Wilson & Lloyd, Swansea)*; *R. H. Walton (Barlow, Lyde & Gilbert, for Rutter & Senior, Hereford)*; *Edwards Jones (J. T. Lewis & Woods, for Alexander & Thomas, Ystalyfera, Glam.)*; *Ungoed-Thomas, K.C.*, and *Rowe Harding (Miles Griffiths & Co., for John C. Morgan, Ystalyfera)*.

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

WILL: POWER OF APPOINTMENT: EXERCISE

In re Latta's Marriage Settlement; Public Trustee v. Latta

Vaisey, J. 3rd March, 1949

Adjourned summons.

The testator W. L. was married in 1901 and a settlement of his wife's property was made on the marriage in the usual form. The wife was entitled to the first life interest and after the death of the survivor the capital was to be held in trust for such of the children or remoter issue as the husband and wife should by deed jointly appoint, and in default as the survivor should by will or codicil appoint, and in default of appointment for the children equally. The settlement also contained a covenant by the wife to settle after-acquired property. The wife died in 1926, leaving two children, a son and a daughter. The covenant to settle after-acquired property was disregarded, but this matter was set right by a supplemental deed made in 1927, in which the husband released his power of appointment to the extent that it might benefit remoter issue. By a further deed in 1929, part of the funds were released from the settlement with the consent of all parties, and resettled with a wider power of investment. The daughter died unmarried in 1943. The testator by his will made in 1946, after giving a legacy of £5,000, proceeded: "I give, devise and appoint all my property real and personal unto the said son in fee simple and absolutely," with a substitution of issue if the son predeceased him. The testator died in June, 1947, and the question raised by the summons was whether he had effectively exercised the power of appointment, as survivor, under the settlement. The value of the funds vested in the Public Trustee was over £30,000.

VAISEY, J., said the question was a familiar one, raised in a novel form. On the one hand the testator had used the word "appoint." On the other hand, he had not only given his property to his son, but had substituted his son's issue if the son predeceased him, and he had released his power to do so. There was a good deal of authority on the question, reviewed by his lordship in *In re Holford's Settlement* [1945] Ch. 21. But the nearest case to the present was *In re Mayhew* [1901] 1 Ch. 677, a decision of Sir George Farwell, who was a notable authority on powers. There the words used were: "I appoint, devise and bequeath," and he held that "appoint" must refer to a special power, and that it was well exercised. Another case where the language used was doubtful was *In re Swinburne* (1884), 27 Ch. D. 696. In his judgment the testator by using the word "appoint" had used a word to which effect must be given if possible. In his lordship's opinion the will operated to exercise

both the powers of appointment vested in him at the time of his death, that under the marriage settlement and that under the supplemental deed of 1929, in favour of his son. It was impossible to say whether the testator remembered the contents of the deeds when he made his will. The point was a difficult one, involving a large sum of money, and though he had been afforded as much assistance as he could expect from counsel, he thought the case was one in which he was entitled to expect the assistance of leading counsel, who were often briefed in comparatively trivial matters.

APPEARANCES: *O. Swingland* (for *H. A. Rose*) (*Thompson, Quarrell & Megaw*); *E. G. Wright* (*Raymond-Barker, Nix & Co.*); *W. J. C. Tonge* (*Boodle, Hatfield & Co.*).

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

RENT RESTRICTION: RIGHTS OF MORTGAGOR'S TENANT

Dudley and District Benefit Building Society v. Emerson

Vaisey, J. 8th March, 1949

Adjourned summons.

The first defendant, Emerson, by a mortgage dated 5th December, 1946, mortgaged a house at Walsall to the plaintiff society to secure £1,020 with interest, repayable by weekly instalments. The mortgage contained the usual powers, including a power to enter into possession on default for a period, and expressly excluded the statutory powers of a mortgagor to grant leases under s. 99 of the Law of Property Act, 1925. The above defendant never occupied the property and it was let to the second defendant G. Only twelve weekly instalments were ever paid, and £1,074 was now owing on the mortgage. The plaintiffs took out this summons against both defendants, asking for an order for possession. Both were duly served, but the first defendant did not appear or defend. The second defendant G defended the claim on the ground that he was a lawful tenant of the mortgagor's and protected by the Rent Restriction Acts.

VAISEY, J., said he was surprised to find that the point raised had not been long ago decided. There was no dispute that the house was within the protection of the Rent Restriction Acts, the standard rent being 16s. 6d. a week. The tenant mainly relied on s. 3 of the Act of 1933. The question was whether he was at the material time a lawful tenant within the meaning and purposes of the Acts; if so he was protected. The definition clauses did not give much assistance. The position of such a tenant was considered by Farwell, J., in *Iron Trades Employers Insurance Association, Ltd. v. Union Land and House Investors, Ltd.* [1937] Ch. 313, where he held that as between lessor and lessee, he was a lawful tenant. Apart from the Act of 1925, a mortgagor had always possessed the power to grant a lease binding upon himself. It was therefore more accurate to define the tenant's position as being lawful rather than unlawful. It was not binding on the mortgagee, but looking at the meaning of the Act, that was not conclusive of the matter. The relevant time to determine the question of lawfulness was immediately before the assertion by the mortgagee of a paramount title (*Norman v. Simpson* [1946] K.B. 158). He came to the conclusion that the tenant was lawfully in possession to an extent sufficient to justify his claim under the Act. A very similar point was decided in the same way in an Irish case, *Martin v. Watson* [1919] 2 Ir. R. 332, which had been referred to, but the facts were not clear enough in the report simply to follow it. The plaintiffs' summons must be dismissed with costs.

APPEARANCES: *John W. Mills* (*Marcy & Co.*, for *Hooper and Fairbairn, Dudley*); *H. Heathcote-Williams* (*Miller & Smiths*, for *C. L. Hodgkinson & Benton, Walsall*).

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

DIVISIONAL COURT

TOWN PLANNING: COMPENSATION FOR WASTED PLANS

Holmes v. Bradfield Rural District Council

Lord Goddard, C.J., Humphreys and Finmore, JJ.

20th January, 1949

Case Stated by an Official Arbitrator under the Acquisition of Land (Assessment of Compensation) Act, 1919.

The respondent local authority refused consent to development of certain plots of the claimant's land. The claimant withdrew his appeal against that refusal on 1st March, 1946, in consideration of the local authority's consent to building on some of the plots. In April, 1946, the claimant submitted a claim for compensation in respect of the land on which permission to build had been refused. In August, 1946, the local authority consented to

building on the plots on which they had previously refused to permit it. Subsequently, before any physical work had been done on the plots, the local authority made an order, which the Minister of Town and Country Planning confirmed, revoking the permission to build on those plots. The arbitrator left for the opinion of the court the questions (1) whether the cost of claimant's expenditure on plans was recoverable as part of his compensation, and (2) if so, whether plans made before the withdrawal of the appeal were also to be included. By s. 7 (2) of the Town and Country Planning (Interim Development) Act, 1943, "Where any permission for the development of land is revoked or modified by an order under this Act, then . . . if any person has . . . incurred expenditure in carrying out any work which is rendered abortive by the order, or entered into a contract for the purpose of any work which is abandoned by reason of the order, he shall be entitled to . . . compensation . . . or . . . to any sums reasonably paid by him in discharge of any liability arising under the contract in respect of the abandonment of that work . . ." By subs. (3) " . . . expenditure incurred in the preparation of plans for the purpose of any work . . . shall be deemed to be included in the expenditure incurred in carrying out the work . . ."

FINNEMORE, J., said that, on a reasonable construction of s. 7 (2) and (3), if a person prepared plans for the purpose of carrying out work for which permission had been given, and that permission was revoked, the expenditure incurred on those plans was deemed to be included in the expenditure incurred in carrying out the work irrespective of whether any physical work had, at the time of the revocation, been begun on the land in question. The claimant was thus entitled to include in his claim for compensation also the cost of preparing plans though building operations on the plots had not actually begun. As for the second question, the claimant was entitled to include in his claim expenditure incurred on plans before 1st March, 1946, notwithstanding that he then withdrew his appeal, because the plans had been prepared for work for which he was later granted permission and which was rendered abortive by the later revocation. Judgment accordingly.

APPEARANCES: *Kekwick* (*Whitlock & Storr*); *Squibb* (*Layton and Co.*, for *Collins, Dryland & Thorowgood, Reading*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVISIONAL COURT

SMALL TENEMENT: JUSTICES' ADJOURNMENT OF APPLICATION

R. v. York Justices; ex parte York Corporation

Lord Goddard, C.J., Humphreys and Finmore, JJ.

26th January, 1949

Application for an order of mandamus.

The applicants, York Corporation, applied to the respondents, York justices, under the Small Tenements Recovery Act, 1838, for possession of a house. The justices adjourned the application for six months on the grounds of the hardship involved for the tenant. The corporation now applied for an order directing the justices to hear and determine the matter.

LORD GODDARD, C.J., said that the justices had no power to adjourn the case as they had purported to do. Where proceedings were properly brought by a landlord under the Act of 1838 for recovery of possession of a house within that Act, the justices had power under the Act to delay execution of the warrant for possession for thirty days. They were also entitled, if they desired to consider the merits of the case, to adjourn it for a reasonable period, say two weeks. They had, however, no power to adjourn an application under the Act of 1838 on grounds of hardship to the tenant. Where the application under that Act was by a landlord other than a local authority, then, by the operation of s. 5 (4) of the Rent, etc., Act, 1920, the warrant was to remain in force for three months from the date of its issue. That provision was, however, not applicable where the application under the Act of 1838 was by a local authority exercising its powers of management under the Housing Act, 1936, for by s. 156 (1) of that Act the operation of the Rent Restriction Acts was excluded from affecting such an application by a local authority. The justices, therefore, had no power to adjourn the application of the corporation for six months on the grounds of hardship, thereby extending to the tenant indirectly the benefits of the Rent Restriction Acts of which he was expressly deprived by s. 156 (1) of the Act of 1936. Order of mandamus.

APPEARANCES: *H. V. Lloyd-Jones* (*Sharpe, Pritchard & Co.*, for *The Town Clerk, York*). The justices did not appear and were not represented.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVISIONAL COURT

LARCENY: BICYCLE TAKEN BY DRUNKEN PERSON
Ruse v. Read

Lord Goddard, C.J., Humphreys and Finnemore, J.J.
26th January, 1949

Case Stated by Devonshire justices.

The appellant, after imbibing alcohol at several public-houses at Sidmouth, visited a fair ground, went round the side-shows, and then, catching sight of a bicycle left near the entrance, rode about on it for some two hours. He had then become sober and, not knowing what to do with the machine, took it home, leaving it in the lane outside the house for the night. The next morning, being in a state of fear at what he had done, he removed the pump and the dynamo and sent them by registered post addressed to himself to his naval station to which he would shortly be returning at the end of his leave. He took the machine itself to the railway station and consigned it to himself at York Station marked "to be collected," paying 12s. 2d. carriage. He stated in evidence that he had no intention of going to collect the machine from York, and had only acted with regard to it as he had in order to get rid of it and so that the original taking should not be discovered. The appellant having been charged with stealing the bicycle and elected to be tried summarily, the justices dismissed the information on the ground that, at the time of the taking, he had no intention, and was incapable of forming one, to deprive the owner of the cycle permanently of his property. The prosecutor appealed. (*Cur. adv. vult.*)

HUMPHREYS, J., reading the judgment of the court, said that it was made clear in *Director of Public Prosecutions v. Beard* [1920] A.C. 479; 64 Sol. J. 340, that evidence of drunkenness rendering the accused person incapable of forming the intent necessary to constitute the crime charged should be considered not because drunkenness was itself an excuse for a crime but because the state of drunkenness might be incompatible with the commission of the crime charged. It was not open to the justices, in view of the evidence that the appellant had in fact ridden round on the machine for two hours, to find him incapable by reason of drunkenness of forming the intention to steal it. A second point, however, was perhaps of greater public importance: the original taking, having been a trespass, was rendered felonious by the appellant's acts the next morning when sober. He had then done everything in his power to prevent the owner from discovering the whereabouts of the machine or its accessories. That was a clear indication of his intention, then formed, of depriving the owner permanently of his property. *R. v. Riley* (1853), Dears. Cro. Cas. 149, was still good law and was indistinguishable. Appeal allowed. Case remitted.

APPEARANCES: *Malcolm Wright* (Crawley & de Reya, for J. C. M. Dyke, McLusky & Hughes, Exeter); *T. Dewar* (Gibson and Weldon, for Chard & Coxwell, Sidmouth).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of THE SOLICITORS' JOURNAL.]

Fusing of the Profession

Sir,—I was surprised to see in your recent issue (*ante*, p. 144) a suggestion that the experience of the States of Australia has proved that a fusion of the two branches of the profession is a failure. I suggest that it has proved the contrary.

Supporters of the present system in England claim as its great advantage that it enables all practitioners to enlist the services of the best available specialist advisers and advocates. This, they suggest, would necessarily be lost under fusion when these specialists would be merged in and monopolised by the larger firms. The example of Australia shows that this is not so, and that in a fused profession a body of specialists can continue to practise and be available to all.

The case for fusion is that it avoids the unjustified expense of forcing litigants in the superior courts to engage and pay specialist advocates whether or not they are needed in fact, and that it would permit of the introduction of a unified system of legal education and apprenticeship. Both these advantages exist in Australia; even those who practise as solicitors have a right of audience in all courts which they can exercise in simple cases (this right is frequently exercised in undefended divorces), and legal education is unified to its great advantage.

L. C. B. GOWER.

Harpenden.

THE LAW AND THE BARBER

EVEN this Government of planners and controllers has quailed before the prospect of registration and regulation envisaged in a private member's Bill recently introduced into the House of Commons. The object of the sponsors was to control the profession of hairdressing, by placing in the hands of a proposed British Hairdressing Board the power to inspect premises, to supervise the entry of trainees into the profession and to exclude persons from the hairdressers' register. In opposing the second reading, the Government spokesman expressed the view that "the circumstances of the hairdressing trade are not comparable with those of such professions as medicine and the law and do not justify a similar system of professional control."

Few will be disposed to quarrel with this statement in its literal significance, but many will deprecate the implied disrespect to a profession of honourable antiquity which can boast practitioners as famous as those of any other calling. It can be said of the barber that his activities touch the person of every member of a civilised community, male and female, young and old, more regularly and with greater decorative effect than those of either doctor or lawyer. The services of the latter are strictly utilitarian, and sought only on special occasions; the barber is an artist, and is continually called upon to improve what nature has overdone or left unfinished. Of him alone can it be said—particularly by the women—"Nihil quod tetigit non ornavit."

The day is past when the red-and-white striped pole proclaimed to the world that every barber was also a surgeon; but his power is by no means diminished. A dispute between layman and lawyer is liable to produce no more serious result than the taxation of a bill or, in extreme cases, an action for negligence; an offended surgeon may leave a sponge in the body of his patient, or remove a superfluous appendix or so. But the hairdresser cannot be insulted with impunity. He would be a bold man who, with the razor at his throat, ventured to demur to his barber's assertion that it seems a little colder to-day. The outraged practitioner, even if he refrained from proceeding to the uttermost limit of retaliation, would still have it in his power so to mark his victim as to make him a perennial laughing-stock among his fellows.

History, too, shows that the power and importance of the barber can scarcely be exaggerated. The *Book of Judges* holds up a dreadful warning of the risks of avoiding his professional ministrations in the story of Samson, who entrusted himself to an amateur—and a woman at that—and came to a bad end in consequence. The *Second Book of Samuel* reinforces the lesson by its account of the sad fate of Absalom, who fell a victim to his pursuers as a result of being caught in a thicket by his superabundant hair. These two unfortunate episodes may help to explain the preference of civilised mankind for the less unruly, detachable wig, which was favoured by the best people, for many generations, in ancient Egypt, and was almost *de rigueur* in all parts of Europe in the seventeenth and eighteenth centuries, surviving in England in the garb of the practising barrister to this very day.

Among the ladies, few are tempted to omit due attention to this part of the toilet. For them the moral lies in the tale of the Gorgon Medusa, though her hairdresser must have enjoyed the additional qualification of a specialist in snake-charming.

The famous barbers of literature have usually been of a philosophic turn of mind, but it must be admitted that their mental qualities have been vitiated by the fault of garrulity. This characteristic of the brotherhood is as old as *The Arabian Nights*, which shows it to have been not unknown in Old Baghdad. James Morier, in *The Adventures of Hajji Baba of Ispahan*, records for Persia a similar tradition; while in Europe the plays of Beaumarchais, and the operas of Mozart and Rossini, celebrated the bustling loquacity of Figaro, the Barber of Seville. England seems to have produced the one exception. Mr. Sweeney Todd, the demon barber of Fleet Street, who dropped his customers through a trapdoor and turned their remains into delicatessen, is not perhaps so agreeable a character as his professional colleagues in history and legend, but in contrast to all these talkers he was certainly a man of action.

A.L.P.

The Local Government Boundary Commission will begin the review of the county districts in the Counties of Monmouth and Worcester on the 13th and 28th June respectively. The review will begin in each case with a joint meeting to which the county council and the county district councils will be invited to send representatives, after which separate consultations will be held with each council.

REVIEWS

Notes on District Registry Practice and Procedure. By THOMAS STANWORTH HUMPHREYS, lately Clerk in Charge, District Registry, Birmingham. Seventh Edition. 1948. London: The Solicitors' Law Stationery Society, Ltd. 7s. 6d. net.

This useful little guide makes a welcome reappearance after the war. Its plan is well known and well tried, and all those who have used the book in the past will agree that its notes contain just that practical information which is most often needed in busy practice. The recent changes arising out of the restoration of the pre-war time scheme, the Exchange Control and Crown Proceedings Acts and other matters are incorporated, and are conveniently summarised in the author's note. There is a very full index. A copy of the book is quite indispensable in provincial offices where district registry practice is brisk, and an inexpensive investment which will show handsome returns wherever High Court proceedings may have to be taken.

Nelson's Tables of Procedure. Fourth Edition, by J. W. MAYO, Solicitor. 1948. London: The Solicitors' Law Stationery Society, Ltd. 7s. 6d. net.

In legal offices the burning question in a particular matter frequently is: what is the next step to take? The simplest way is to ask the managing clerk; a much despised alternative may be to wade through the pages of a bulky work on the relevant subject, which arduous task may or may not yield satisfactory results if the matter in question is outside the scope of rules of court or common conveyancing practice. A third and very effective method, in cases of company formation, administration or winding-up, insolvency, or administration of estates, is to consult "Nelson's Tables of Procedure." The efficiency of the lay-out and its accuracy are remarkable until one realises that the work is the outcome of collaboration between an accountant and a solicitor. There cannot be a solicitor's office where its cogent reminders of such points as the steps to be taken to comply with statutory requirements or the rights of dissentients on company reconstruction would not save time and patience, and perhaps (but tell it not in Gath!) avoid costly errors.

This new edition forms a thoroughly reliable practical guide to the matters it treats. Its references to the Companies Act are up to date and cases are noted where apposite.

Exchange and Borrowing Control. Reprinted from Butterworth's Annotated Legislation Service. By F. C. HOWARD, M.A., Solicitor of the Supreme Court. 1948. London: Butterworth & Co. (Publishers), Ltd. 21s. net.

A book collecting together and presenting in indexed form the many Statutory Instruments, etc., relating to Exchange and Borrowing Control is by itself of real value to the practitioner, to whom the task of keeping in mind and tracing delegated legislation is day by day becoming more impossible. This book will commend itself the more highly to the practitioner in that all the relevant legislation is fully annotated and also in that the writer has not hesitated to draw on his own experience to provide information relating to Exchange Control practice, which is not to be found on paper but lies in the minds of the officials concerned in administration. Personal experience in Exchange Control matters is not a fully reliable guide, as the views and practice of officialdom fluctuate without apparent reason, but it is none the less of considerable value. Every practitioner will find this book to be a real asset.

Notes on Banking Cases, 1787-1948. By FRANK D. JOHNSON, Associate of the Institute of Bankers. 1949. London: Macdonald & Evans. 6s. net.

This handy little book is an *aide-memoire* for students and others of the facts and decisions in something like 100 cases of importance in the banking world, some of them not to be found in the usual series of reports. The general arrangement is ideal for those for whom it is intended, though the lawyer will find it insufficiently detailed for his purposes. There is a valuable sentence or two of comment at the end of each epitome, and a brief explanatory word on some recent statutes relevant to the subject completes a useful banking-student's handbook.

Death Duties. "This is the Law" Series. By K. MCFARLANE, LL.D., of the Estate Duty Office. 1948. London: Stevens and Sons, Ltd. 4s. net.

This is a useful little book of 123 pages (plus index) on an extremely complicated subject. The object of the book is stated to be to assist laymen to understand the burdens which

their estates will bear and to inform executors of their obligations. Although in places rather more detailed and difficult to understand than a layman might wish, yet the book will serve its purpose, if only for the reason that it discloses the exceptionally large (and, in the reviewer's opinion, over-heavy) portion of medium and large estates seized from the family on each death.

A perusal will certainly impress the reader with the necessity for immediately taking professional advice if he has his dependants' welfare at heart.

The paragraphs dealing with property put into the joint names of husband and wife are informative.

The book is scarcely detailed enough to be of great service to law students or practitioners and (very properly) no cases are quoted.

A Text-book of the English Conflict of Laws. By CLIVE M. SCHMITTHOFF, LL.M. (Lond.), LL.D. (Berlin). Second Edition. 1948. London: Sir Isaac Pitman & Sons, Ltd. 35s. net.

In view of the vicissitudes which delayed the publication of the first edition of Dr. Schmitthoff's work from 1939 until 1946, it is doubly pleasant to welcome so early a second edition. The foreword by Lord Macmillan recommends the book both as a work of reference and also as a students' manual, an ample testimonial for any legal author. The average professional reader will, indeed, find here everything that he expects of a treatise on a "young" subject; the historical and theoretical basis of each of its sections—as on a map depicting the sites of the principal "conflicts of lawyers" (to borrow from Lord Macmillan) and the theatres where such disputations still rage; the accepted English view clearly set out and reinforced with ample quotations from authority; and frequent summaries which to the student will prove invaluable. There are bibliographical references in the text for those who have the time and inclination for further reading.

The new edition notes more than fifty new cases, some of them (e.g., *Re Duke of Wellington* [1948] 1 Ch. 118; and *De Reneville v. De Reneville* (1948), 64 T.L.R. 82) being extensively dealt with and fitted into the text at several places. In the conflict of laws, new cases are especially likely to break new ground, but it says much for the soundness of the author's original plan and treatment that so little essential change has had to be made. We look forward to a testing in the courts of the ingenious but not quite convincing reconciliation of *Machado v. Fontes* [1897] 2 Q.B. 231 with the two *Canadian Northern Railway* cases reported at [1923] A.C. 113 and 120 (p. 152).

Outstandingly clear is the treatment of the general topic of domicile. Could not the author's useful list on p. 97 of countries whose attitude to a *renvoi* is demonstrable from the cases be extended to France, on the authority of *Forgo's* case and *Re Annesley* [1926] Ch. 692?

Ranking, Spicer and Pegler's Mercantile Law. Eighth Edition. Edited by W. W. BIGG, F.C.A., F.S.A.A., and C. N. BEATTIE, Barrister-at-Law. 1948. London: Sir Isaac Pitman & Sons, Ltd. 25s. net.

The authors describe this as a students' text-book; and its value as a thorough and careful exposition of the subject is well known to those studying law for the purpose of a career in commerce. The synopses of each chapter and the excellent glossary of mercantile terms and legal maxims are most helpful features for this type of reader. At the same time the treatment is "professional" to a degree once thought (wrongly, we believe) inconsistent with an appeal to general students. One result of this is that the legal reader will find it an excellent reference book on some of the more mercantile of its topics. In what other comparable book, for example, will there be found so comprehensive a discussion of legality of object with regard to contract? For the sake of completeness we should indeed have liked to see an account of company law included, but no doubt that is because the excellence of what we have made us greedy for more.

The book is thoroughly up to date, employs modern examples to illustrate its points, and is not afraid to take a bold line when occasion requires—as witness the doubt thrown on p. 38 on the soundness of the thesis in the *Central London Property* case. The table of statutes breaks new ground in being set out by sections with abbreviated sidenotes—a most useful idea. The whole is prefaced by a historical introduction suitable for general students, but marred for us by an infelicity of expression at the top of p. lii which seems to suggest that the rules of equity were identical with the rules of Roman law!

SURVEY OF THE WEEK

ROYAL ASSENT

The following Bills received the Royal Assent on 9th March:—

American Aid and European Payments (Financial Provisions)
Cinematograph Film Production (Special Loans)
 Clydebank Burgh Order Confirmation
Colonial Naval Defence
Education (Scotland)
Export Guarantees
Minister of Food (Financial Powers)
National Theatre
Pensions Appeal Tribunals
Railway and Canal Commission (Abolition)
Savings Banks

HOUSE OF LORDS

A. PROGRESS OF BILLS

Read First Time:—

British North America Bill [H.C.] [10th March.

Landlord and Tenant (Rent Control) Bill [H.C.] [8th March.

Patents and Designs Bill [H.L.] [8th March.

To amend the enactments relating to patents and designs and to provide for an additional puisne judge of the High Court.

Read Second Time:—

Juries Bill [H.C.] [8th March.

Public Works (Festival of Britain) Bill [H.C.] [10th March.

Social Services (Northern Ireland Agreement) Bill [H.C.] [10th March.

Tenancy of Shops (Scotland) Bill [H.C.] [8th March.

Read Third Time:—

Hurst Park Race Course Bill [H.L.] [8th March.

Solicitors, Public Notaries, etc., Bill [H.C.] [10th March.

B. QUESTIONS

In reply to a question by LORD BROUGHSHANE, LORD AMMON stated that the last date for lodging claims for compensation under the Town and Country Planning Act, 1947, was 30th June, 1949, and 54,005 claims only had so far been received. The amounts of the claims would be estimated by the Central Land Board and not by the claimants and, generally, not until the claims were all received. He could give no estimate of the amount of claims so far received. The sum of £300,000,000 was fixed by Parliament not as an estimate of the amounts which would be claimed by landowners, nor as a global sum of the estimated value of the development rights with the floating value eliminated, but as the sum which the Government considered could safely be added to the financial burdens of the State and which was at the same time sufficient to meet all reasonable claims on a hardship basis, on the basis of available information of the types of case likely to arise, and bearing in mind that a good deal of land possessing development value was excluded from compensation—dead-ripe land and land held by local authorities, statutory undertakers, the National Coal Board, Government Departments, and the Commissioners of Crown Lands, and land used for charitable purposes. VISCOUNT SWINTON stated that when the Bill was before the House of Lords they had been informed that the intention was to pay all genuine claims, that was to say, to give fair value for what was being taken away. LORD AMMON said he was not aware that there was to be any variation from statements already made.

[9th March.

VISCOUNT ADDISON, in reply to a question by VISCOUNT SIMON, stated that by virtue of s. 3 (2) of the British Nationality Act, 1948, the National Service Acts would continue to apply to citizens of Eire who were of military age and ordinarily resident in Great Britain. The Government were considering what legislation might be required to give effect to the Government's policy stated by the Prime Minister on 25th November, namely, that Eire should not be regarded as a foreign country, nor its citizens as foreigners. Viscount Simon drew attention to a letter from Sergeant Sullivan in *The Times* of 28th February to the effect that when the Republic of Eire came into being it would have to be regarded as a foreign state and that the words "citizens of Eire" in the British Nationality Act, 1948, would have to be interpreted as referring to persons under the allegiance of the Crown and within the Commonwealth. Viscount Addison said that consideration was being given to the matter.

[8th March.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time:—

Housing (Scotland) Bill [H.C.] [8th March.

To amend the Housing (Scotland) Acts, 1925 to 1946; to promote the improvement of housing accommodation in Scotland by authorising the making of contributions out of the Exchequer and of grants by local authorities; to authorise the making out of the Exchequer of contributions in addition to the contributions payable under the Housing (Financial Provisions) (Scotland) Act, 1946, in certain cases, and of contributions in respect of the provision of hostels and of building experiments in Scotland; to extend and amend certain provisions of the Small Dwellings Acquisition Act, 1899, and the Building Materials and Housing Act, 1945, in their application to Scotland, and for purposes connected with the matters aforesaid.

Merchant Shipping (Safety Convention) Bill [H.C.] [10th March.

To enable effect to be given to an International Convention for the Safety of Life at Sea, signed in London on the tenth day of June, 1948; to amend the provisions of the Merchant Shipping Acts, 1894 to 1948, relating to the construction of passenger steamers, to life-saving appliances, wireless and radio navigational aids and to other matters affected by the said Convention, and to amend the provisions of those Acts relating to fees.

Read Second Time:—

Superannuation Bill [H.C.] [9th March.

Tyne Improvement Bill [H.L.] [7th March.

Read Third Time:—

British North America Bill [H.C.] [9th March.

B. DEBATES

A number of new clauses and amendments were added to the Landlord and Tenant (Rent Control) Bill on the Report Stage. In moving the first new clause, Mr. BLENKINSOP said that it would be quite wrong to allow a tenant to recover a premium from a landlord who had not himself ever received it. As the premium could not be recovered as rent equivalent, provision was made for the recovery of lump sums on principles set out in a new Schedule to the Bill. Colonel DOWER asked what procedure there would be for finding the landlord who had received the premium. Mr. BEVAN replied to the effect that he might be difficult to find, but the Bill now provided a remedy if he was found. Mr. SYDNEY SILVERMAN thought the clause a mistake—the purchaser could easily protect himself against liability to repay a premium by sending a requisition to the vendor asking if a premium had been taken from a tenant. A second new clause extends the provisions for recovery of premiums to lettings which are within the scope of the Furnished Houses (Rent Control) Act, 1946. Mr. MANNINGHAM-BULLER drew attention to the exemption in this clause of payments made in respect of the goodwill of a trade, profession or business. Did the term "goodwill" bear here the same meaning as in the Landlord and Tenant Act, 1927? Mr. BEVAN would not define the word and said the tribunals themselves would do that. Lieut.-Colonel ELLIOT moved a clause providing for repayment of the stamp duty paid on an assignment or grant, etc., of a tenancy where the rent or premium payable under the agreement was subsequently reduced or ordered to be refunded by the tribunal. Mr. BEVAN could not agree that a person who has charged a premium or an unreasonable rent should be allowed to recover stamp duty and the clause was negatived. A clause introduced by Mr. MOLSON providing for an appeal from the tribunals to an arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, was also negatived. Sir JOHN MELLOR moved a clause to make clear that the tribunals should have regard to all the circumstances of the premises and all the terms of the contract, but should not have any regard for the personal circumstances of the landlord or the tenant. Mr. BEVAN said he thought that the wording of the Bill was clear as it stood, but that if the words were capable of any meaning other than that which the clause sought to emphasise, he would alter them. The clause was withdrawn. A further new clause proposed by Mr. MOLSON sought to give the Minister power to make regulations for the guidance of tribunals in ascertaining what is the reasonable rent. Mr. MARLOWE thought the absence of a right of appeal on this question made it important to have some uniformity on the principles which tribunals would apply. Mr. JANNER pointed out that there was no appeal on fact from the decisions of county court judges under the Rent Acts, and

he thought the tribunals were as capable as the judges of deciding such issues. Mr. BEVAN said such regulations would open up the possibility of many actions claiming that the decisions of tribunals were *ultra vires* because they had not paid attention to his directions. The clause was lost. Further Government amendments to the Bill provided that houses managed by a development corporation under the New Towns Act, 1946, and houses whose rent is limited by any statute other than the Rent Restriction Acts are excluded from the Bill, and that where a house within the Bill is let at a progressive rent it shall be the maximum rent chargeable which is taken into consideration for the purposes of the Bill. Lieut.-Colonel ELLIOT said this was unfair to the simple, honest person who had let at a low rent and was fixed at that rent, whereas for the smart Alec the highest peak was taken as the standard rent. Lieut.-Colonel Elliot also moved a clause which he said would permit a charge to be made for modernisation of the dwelling-house as distinct from structural alteration. Mr. BEVAN thought that the existing wording of the Bill permitted an assignor to charge for such items, but if the words "structural alteration" could not be so construed he would take appropriate action. Mr. BLENKINSOP moved a further new clause providing that a charge may be made on assignment in respect of goodwill where part of a dwelling-house is used for trade or professional purposes. Mr. BEVAN indicated to Mr. JANNER that in assessing goodwill the tribunal could engage an expert valuer and could call for the accounts of the assignor. [7th March.]

C. QUESTIONS

Mr. SILKIN stated that development charge was payable on any extension in excess of 10 per cent. of the cubic content of buildings used as village halls and institutes. The amount of the charge would depend on the location and might be nil in some cases. [8th March.]

Mr. ISAACS gave a list of orders made under regs. 58A and 58AA of the Defence (General) Regulations, distinguishing those fully in operation, those partly in operation, and those which are not being operated. [8th March.]

In reply to Mr. JANNER, Mr. NOEL-BAKER said that maintenance orders made in this country cannot be enforced in Eire under the Maintenance Orders (Facilities for Enforcement) Act, 1920, because the Eire Government had not passed the necessary legislation adopting the Act. He would consult the Home Secretary to see whether it would be worth while to invite the Eire Government to make reciprocal arrangements for enforcement. He understood that the Eire police tried to persuade husbands to do their duty. Mr. GALLAGHER said that an order could be evaded if the husband merely took work in an Admiralty yard, and asked whether the Minister would consult the Home Secretary on that point. [10th March.]

BOOKS RECEIVED

Town and Country Planning Law. "This is the Law" Series. By JAMES KEKWICK, of Gray's Inn, Barrister-at-Law, and ROBERT S. W. POLLARD, Solicitor of the Supreme Court. Second Edition. 1949. pp. v and (with Index) 139. London: Stevens & Sons, Ltd. 4s. net.

Practical Auditing. By ERNEST EVAN SPICER, F.C.A., and ERNEST C. PEGLER, F.C.A. Ninth Edition by WALTER W. BIGG, F.C.A., F.S.A.A. 1949. pp. xx and (with Index) 656. London: H.F.L. (Publishers), Ltd. 25s. net.

Oyez Practice Notes, No. 8: Local Land Charges. By C. K. PHILLIPS, M.A., of Lincoln's Inn, Barrister-at-Law. 1949. pp. 32. London: The Solicitors' Law Stationery Society, Ltd. 2s. 6d. net.

Agricultural Law and Tenant Right. By CLEMENT E. DAVIES, K.C., M.P., and N. E. MUSTOE. Fourth (Enlarged) Edition by N. E. MUSTOE, M.A., LL.B., of Gray's Inn, Barrister-at-Law, and RAYMOND H. WOOD, F.R.I.C.S. 1949. pp. liii and (with Index) 1084. London: The Estates Gazette, Ltd. 55s. net.

Summary of Statutory and other Requirements in the Production of Annual Accounts of Companies. 1949. pp. 39. London: Gee & Co. (Publishers), Ltd. 5s. net.

STATUTORY INSTRUMENTS

National Insurance and Industrial Injuries (Reciprocal Agreement with Eire, Mercantile Marine) Order, 1949 (S.I. 1949 No. 371).

This Order deals mainly with the position of a seaman whose ship is registered in one country and of which the owner resides or has his principal place of business in another country. Provision is also made to deal with the situation which arises when a seaman is entitled to benefits in one country, but his wife is in the other country. She is to be treated as if she were in the same country as her husband.

Criminal Justice Act, 1948 (Date of Commencement) (No. 2) Order, 1949 (S.I. 1949 No. 372). See *ante*, p. 169.

Representation of the People Regulations, 1949 (S.I. 1949 No. 327).

Motor Fuel (Commercial Petrol) Licence and Order, 1949 (S.I. 1949 No. 338).

This Order enables a person who is required to remove red petrol from the tank of a private car to dispose of it to a dealer without the dealer surrendering coupons. It also authorises holders of X and Y coupons to deposit them with dealers in advance of supplies.

Electricity (Composite Companies) (Securities) Regulations, 1949 (S.I. 1949 No. 339).

Education (Local Education Authorities) Amending Grant Regulations No. 1, 1949 (S.I. 1949 No. 317).

Local Education Authorities (Recoupment) Regulations, 1949 (S.I. 1949 No. 318).

PARLIAMENTARY PUBLICATIONS

Patents and Designs Bill, 1949. Draft of two Bills to consolidate the enactments relating to Patents and to Registered Designs as proposed to be amended by the Patents and Designs Bill, 1949 (Command Papers, Session 1948-49, No. 7645).

Patents and Designs Bill, 1949. (House of Lords Bill, Session 1948-49, No. 56).

Report of the Departmental Committee on Depositions (Chairman Mr. Justice Byrne) (Command Papers, Session 1948-49, No. 7639). See *ante*, p. 169.

NON-PARLIAMENTARY PUBLICATIONS

Central Land Board. Practice Notes (1st Series). Being Notes on Development Charges under the Town and Country Planning Act, 1947.

Ministry of Health. Local Land Charges Forms.

(A.1). Land Charges Act, 1925, as amended. Register of Local Land Charges, Parts I and II.

(A.3). Land Charges Act, 1925, as amended. Register of Local Land Charges, Part IV.

(A.4). Agriculture (Miscellaneous Provisions) Act, 1941. Register of Local Land Charges, Part V.

NOTES AND NEWS

Honours and Appointments

Sir ERNEST HANDFORTH GOODMAN ROBERTS, K.C., has been appointed a Commissioner of Assize on the Midland Circuit.

Major H. LEIGH, of Sudbury, the new High Sheriff of Derbyshire, has appointed Mr. W. L. P. WOOLLEY, a partner in the firm of Moodey and Woolley, solicitors, of Derby, as his Under-Sheriff.

Mr. H. B. CHYNOWETH, deputy clerk of Thurrock Urban District Council, has been appointed Clerk to Coalville (Leicestershire) Urban District Council.

Mr. A. GWYNNE DAVIES, Town Clerk of Loughborough, has been appointed Secretary of the East Midlands Gas Board. He was admitted in 1930.

Mr. P. D. DENNY, a partner in the firm of Dawson & Co., solicitors, of Bradford, has been appointed Clerk of the Peace in Bradford for a temporary period of six months. He was admitted in 1926.

Mr. I. A. FLINT, a partner in the firm of Allen & Jackson, solicitors, of Bromyard, and of Abell, Jackson & Reece, of Worcester and Stourport, has been appointed temporary part-time clerk to the City of Hereford Magistrates Court as from 1st April. He was admitted in 1941.

Mr. F. J. PEARSON, of Kendal, has been appointed assistant solicitor in Weston-super-Mare Town Clerk's Department. He was admitted in 1947.

Mr. J. F. PLANT has been appointed junior assistant solicitor to Stoke-on-Trent County Council.

Mr. ALLEN MONTAGUE SMITH, of the firm of A. G. Smith and Sons, solicitors, of Melksham, has been appointed Registrar of Bath, Chippenham, Trowbridge, Warminster and Frome County Courts. He will continue to hold the office of Registrar at Melksham and Devizes. Mr. Smith will retire from his practice on 1st July.

Mr. P. D. C. WADSLEY, assistant solicitor in the Town Clerk's Department at Bridlington, has been appointed assistant solicitor to Reigate Corporation. He was admitted in 1939.

Miscellaneous

The tribunal provided for by s. 42 of the National Health Service Act, 1946 (which provides for the establishment of a tribunal for the purpose of inquiring into cases where representations are made that the continued inclusion of a person on the list of an executive council would be prejudicial to the efficiency of the service in which that person is participating), has now been set up under the chairmanship of Sir Reginald Taaffe Sharpe, K.C. The clerk to the tribunal is Mr. R. B. Cooke, solicitor, of 5, Verulam Buildings, Gray's Inn, London, W.C.1. All communications for the tribunal should be addressed to the Clerk to the National Health Service Tribunal (not by name) at that address.

The Minister of Fuel and Power has appointed Mr. Robert Webber Leach, Barrister-at-Law, to succeed Mr. Reginald Clark, K.C., as chairman of the North Midland District Valuation Board constituted under the Coal Industry Nationalisation Act, 1946, and the Coal Industry Nationalisation (Valuation of Compensation Units) Regulations, 1947.

The University of London Institute of Advanced Legal Studies is holding a summer vacation course in English law for foreign students from 27th June to 26th July. The course is designed primarily for law students and young lawyers of European countries who wish to acquire first-hand knowledge of the principles of law and the legal institutions of England. No one will normally be accepted for the course unless he or she holds a degree in law (or an equivalent professional qualification) and has a sufficient knowledge of English to follow a lecture and, if possible, to take part in discussions. The subjects covered will include the English legal system, common law and equity, criminal law, public law and social legislation. Accommodation for the course will be available. A consolidated fee for the whole course will be £36. Applications and requests for further information should be sent to the Secretary, University of London Institute of Advanced Legal Studies, 25, Russell Square, London, W.C.1. (Tel.: Museum 3232).

Wills and Bequests

Mr. W. J. Barton, solicitor, of Dereham, left £9,690 1s. 3d., net personalty £9,394 3s. 10d. Mr. Barton was clerk to the Dereham Magistrates for over thirty years and coroner for the Dereham district.

Mr. Isaac Daniel Hooson, solicitor, of Rhosllanerchrugog, left £47,978, net personalty. Mr. Hooson, a partner in the firm of Hooson & Hughes, made a number of bequests to employees of the firm.

SOCIETIES

At the meeting of the Board of Directors of THE LAW ASSOCIATION, held on 7th March, 1949, at The Law Society's Hall, three grants to beneficiaries—relatives of non-members—were renewed for a further year, amounting to £112. This figure brings the total of moneys voted so far in the current financial year to £2,187 16s., for the relief of members' and non-members' relatives, in addition to Christmas gifts to all beneficiaries and their dependent children, and holiday grants to two widows with children of school age.

It was agreed to appeal through the Press for fifteen new members before the close of the financial year on 20th May,

the number needed to raise the membership to 1,000, the immediate short-term target. Application forms and further particulars may be obtained from the offices of the Association, 25 Queensmere Road, S.W.19 (WIMBLEDON 4107).

The unity of the legal profession in Britain was stressed by Mr. Justice Willmer at the annual dinner of LEEDS LAW STUDENTS' SOCIETY, at the Great Northern Hotel, Leeds, on 8th March. Mr. Justice Streetfield, President, presided.

Mr. Justice Willmer said that, unlike Continental countries, where judges went on to the Bench as soon as they graduated, in Britain judges were appointed from those practised in the legal profession. "The most important consideration in this," he said, "is the essential oneness of the legal profession in this country. Judges, counsel, solicitors, solicitors' managing clerks, students doing their first day's work, are all engaged jointly in the same enterprise—seeing that justice is done between man and man."

Other speakers were Mr. Justice Pritchard, Mr. C. Paley Scott, K.C. (Recorder of Leeds), Mr. J. S. Snowden, K.C. (Assistant Recorder of Leeds), Mr. A. R. Glazebrook (President of the Incorporated Leeds Law Society), Mr. B. H. Lewis (Treasurer of Birmingham Law Students' Society), Mr. D. S. B. Hopkins (Secretary, Leeds Law Students' Society), and Mr. T. C. Eagle (Treasurer, Leeds Law Students' Society).

Also present were: Mr. Ralph Cleworth, K.C. (Recorder of Middlesbrough), Mr. H. C. Radcliffe, K.C. (Clerk of Assize, Leeds), Councillor H. S. Vick (Deputy Lord Mayor of Leeds), Mr. O. A. Radley (Town Clerk of Leeds), Mr. T. W. Swales (President of the Insurance Institute of Yorkshire), Mr. C. Boyle, and representatives of Bradford, Hull, Sheffield, Newcastle-on-Tyne and Nottingham Law Students' Societies.

An ordinary meeting of the MEDICO-LEGAL SOCIETY will be held at Manson House, 26, Portland Place, W.1. (Tel.: Langham 2127), on Thursday, 24th March, at 8.15 p.m., when a paper will be read by Miss Rebecca West on "Lynching Trials in America."

At the annual general meeting of the NOTTINGHAM INCORPORATED LAW SOCIETY, held at the Guildhall, Nottingham, on 11th March, the following officers were elected for the coming year: Mr. H. Reeve Allerton, President; Mr. W. G. Jacobson, Vice-President; Mr. H. D. Bright, Hon. Treasurer; and Mr. R. J. T. Smith, Hon. Secretary.

A joint meeting of the UNITED LAW SOCIETY and the UNION SOCIETY was held in the Barristers' Refreshment Room, Lincoln's Inn, on 7th March, 1949.

The motion "That in the opinion of this house increased Social Security is undermining individual initiative" was defeated by nine votes to fourteen.

At the 73rd annual general meeting of the BRADFORD INCORPORATED LAW SOCIETY, held on Wednesday, 9th March, the following officers were elected: Mr. C. T. Law-Green, of Messrs. Mumford, Thompson & Bird, solicitors, of Bradford, President; Mr. John L. Wade, of Messrs. Wade & Co., solicitors, of Bradford, Senior Vice-President; Mr. Harry B. Connell, of Messrs. Wilfrid Dunn & Connell, solicitors, of Bradford, Junior Vice-President; and Mr. F. C. Metcalfe, of Messrs. A. V. Hammond & Co., solicitors, of Bradford; and Mr. S. Ackroyd, of Messrs. Gaunt, Fosters and Bottomley, solicitors, of Bradford, Joint Hon. Secretaries.

OBITUARY

MR. N. B. EBISON

Mr. Northcote B. Ebison, of Shirley, Croydon, died on 12th March, aged 70. Mr. Ebison was with the firm of Thos. Cooper & Co., solicitors, of London, for fifty-two years.

MR. R. B. HAMILTON

Mr. Robert Bousfield Hamilton, partner in the firm of Wells and Hind, solicitors, of Nottingham, died on 6th March, aged 42. He was admitted in 1935.

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